

GAHC010156312024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./2384/2024

NANDU SINGH
S/O LATE HRIDAY SINGH, R/O VILL- TEKABIGHA, P.O.-LAKHNPURA, P.S.-
BAKHTIYARPUR, DIST- PATNA, BIHAR

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M KHAN, K MAINUDDIN, MS J AKTAR

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

06/09/2024

Heard Mr. M Khan, learned counsel for the petitioner and Mr. R J Baruah, learned Additional Public Prosecutor, Assam.

2. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed by the petitioner, namely, **Nandu Singh**, seeking bail in connection with **Special (Narcotic) Case No. 55 (Bongaigaon) of 2024** under Sections 20(b)(ii)(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, arising out of Bongaigaon Government Railway Police Station Case

No.18/2024, wherein, he was arrested on 25.02.2024 and is in custody till date.

3. As per the FIR of the case dated 24.02.2024 relating to said Bongaigaon GRPS Case No.18/2024 on 23.02.2024 while the Secunderabad Special Fare Express Train No. 07029DN (AGTL-SC) left from Guwahati Railway Station, on a tip off regarding smuggling of Cannabis (Ganja) by the said train, a police team from New Bongaigaon GRP-Investigation Center conducted search operation on the said train from Guwahati to New Bongaigaon Junction and during such search before the said train reach New Bongaigaon Junction three male persons including the petitioner were apprehended with items suspected to be Cannabis (Ganja) where he was found in Coach No. S-10 seated on the seat No. 36 of the said train, whereas other two persons, namely, Rahul Meena and Atul Goyel were found in Coach No. B-3 and that they seeing police, tried to escape but could be detained. On being interrogated the petitioner admitted that he was carrying packets of Cannabis (Ganja) hidden inside his shirt in four large size pockets of a separate dress made of red cloth. When the train arrived at New Bongaigaon Railway Station around 12:02 AM, police team of New Bongaigaon GRP along with the three male persons including the petitioner got off of the said train with the recovered items suspected to be Cannabis (Ganja). Following the due procedure when the petitioner was searched four packets of suspected Cannabis recovered from the petitioner kept inside his shirt in four large size pockets of a separate dress made of red cloth its total weight was found to be of 5 Kgs., approximately. Similarly, from the other two persons suspected Cannabis weighing about 8.5 Kgs. and 8.7 Kgs. respectively were recovered from their possession and altogether 22 Kgs. approximately, suspected Cannabis were recovered from the possession of those three persons and the Officer-in-Charge of Bongaigaon GRPS seized the recovered NDPS substances in presence of available witnesses.

4. Seizure of said 22 Kgs. suspected Cannabis was made by the Judicial Magistrate, First Class, Bongaigaon on 24.02.2024 and the petitioner was produced before the learned Special Judge (NDPS), Bongaigaon on 25.02.2024. Charge-sheet in the case under Sections 20(b)(ii)(C)/29 of NDPS Act was submitted on 31.05.2024. The Court of learned Special Judge (NDPS), Bongaigaon on 25.07.2024 in the Special (Nar) Case No. 55 (BGN)/2024 arising out of said Bongaigaon GRPS Case No. 18/2024 framed Charge under Section 20(b)(ii)(C)/29 of the NDPS Act, 1985 against the petitioner and the other two persons. The petitioner along with the other two persons is currently lodged in the Abhayapuri District Jail in connection with said Special (Nar) Case No. 55 (BGN)/2024 since the date of his arrest on 25.02.2024 and the said case is presently pending before the Court of learned Special Judge (NDPS), Bongaigaon.

5. Placing the FIR dated 24.02.2024 relating to said Bongaigaon GRPS Case No. 18/2024 (Annexure-1 to this petition), accused forwarding dated 25.02.2024 in said Bongaigaon GRPS Case (Annexure-3 to this petition), the charge-sheet dated 31.05.2024 filed in said case (Annexure-4 to this petition) and the seizure list dated 24.02.2024 M.R. No. 22/2024 in the said Bongaigaon GRPS Case No. 18/2024 (Annexure-2 to this petition), it is submitted on behalf of the petitioner that police recovered only four packets of Cannabis weighing 5 Kgs. approximately from the petitioner that was kept hidden inside his shirt in four large size pockets of a separate dress.

6. Petitioner contended that he is no way connected with the other two persons and he does not know them at all and only 5 Kgs. of Ganja much less than commercial quantity of NDPS materials being recovered from his possession, he should be considered for bail in any terms and conditions that may be imposed by the Court and that while considering the recovery of 22 Kgs. of Ganja in total in the case he should not be considered jointly with the other two accused persons of the case.

7. On the other hand, Mr. Baruah, learned Additional Public Prosecutor, Assam objected the bail of the petitioner and submitted that jointly approximately 22 Kgs. of Ganja was recovered from the possession of the three accused persons of the case including the petitioner. In that regard, Mr. Baruah, relied on Sections 21(c) and 29 of the NDPS Act.

8. Perused the records of Special (Nar) Case No. 55 (BGN)/2024 that was called for by the Court. From the record, it is seen that the petitioner was arrested on 25.02.2024 at 8.40 PM in said Bongaigaon GRPS Case No. 18/2024 and the FSL report dated 18.04.2024 confirmed the seized substance to be ganja.

9. Considered the decision of the Hon'ble Supreme Court in the case of *Amar Singh Ramjibhai Barot Vs. State of Gujarat* reported in (2005) 7 SCC 550.

10. Following the law being held by the Hon'ble Supreme Court in the said Amar Singh Ramjibhai Barot (Supra), this Court is of the opinion that the total quantity of NDPS materials recovered from the petitioner is not to be considered collectively with regard to all the three accused persons of the case including the petitioner since the individual recovery from the petitioner is not commercial quantity.

11. Considering the above and the period of detention in custody since 25.02.2024, the Court is of the opinion that further custodial detention of the petitioner in said Special (Nar) Case No. 55 (BGN)/2024 arising out of Bongaigaon GRPS Case No. 18/2024, presently pending before the Court of learned Special Judge (NDPS), Bongaigaon is not warranted. Accordingly, this bail application of the

petitioner is accepted.

12. It is also seen that the petitioner is a resident of Village-Tekabigha, P.O. Lakhanpura, under the jurisdiction of Bakhtiyarpur Police Station, District-Patna, Bihar and a person outside the State of Assam.

13. Considering the same, the petitioner, namely, **Nandu Singh**, son of Lt. Hriday Singh be released on bail in said Special (Nar) Case No. 55 (BGN)/2024 under Sections 20(b)(ii)(C)/29 of the NDPS Act, 1985, on furnishing a bail bond of Rs.1,00,000/- with 2 (two) suitable local sureties each of the like amount, to the satisfaction of the learned Special Judge (NDPS), Bongaigaon on conditions that the petitioner – **(i)** shall not leave the jurisdiction of the learned Special Judge (NDPS), Bongaigaon without prior written permission from the said authority, **(ii)** shall appear before the learned Special Judge (NDPS), Bongaigaon in said Special (Nar) Case No. 55 (BGN)/2024 on the dates fixed and as and when he is required in the said case; **(iii)** shall not tamper with the evidence of the case; **(iv)** shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer and **(v)** shall not indulge in any offence or any criminal activities in future, failing which, the bail granted to him in the aforesaid Special (Nar) Case No. 55 (BGN)/2024 shall stand automatically vacated.

14. The learned Special Judge (NDPS), Bongaigaon in said Special (Nar) Case No. 55 (BGN)/2024 shall be at liberty to impose any other condition(s) as it deems fit and proper at the time of releasing the accused petitioner on bail securing/procuring his attendance during the trial of the said case.

15. This Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant