

GAHC010163432023



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

Case No. : Crl.Pet./800/2023

UNION OF INDIA
REP. BY INTELLIGENCE OFFICER OF NARCOTIC CONTROL BUREAU,
GUWAHATI ZONAL UNIT, GUWAHATI VIP ROAD, RUPKONWAR PATH,
CHACHAL, KHANAPARA, GUWAHATI-781002.

VERSUS

LAKHAN DAS
S/O SHRI SURESH DAS
R/O VILL- LONGKHRANG,
P.O. AND P.S. BOKAJAN,
DIST. KARBI ANGLONG,
PIN-782480

Advocate for the Petitioner : MR. S C KEYAL

Advocate for the Respondent : MR. A CHAUDHURY

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 27-05-2024

Heard Mr. S.C. Keyal, learned Standing Counsel for NCB and Mr. N. Mahajan, learned counsel for the respondent.

2. The learned Standing counsel for the petitioner has filed this application under Section 482 of the Code of Criminal Procedure, 1973 (CrPC for short) with a prayer to set aside the impugned order dated 11.04.2023 passed by the learned Special Judge, Kamrup, Rangia in connection with Bail Application No. 99/2023 in NDPS Case No. 24/2021.

3. The accused Sri Lakhan Das was detained as per order dated 29.12.2022 passed by the Joint Secretary to the Government of India, specially empowered under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (as amended), with a view to prevent him from engaging in illicit trafficking of narcotic drugs & psychotropic substances, in future. The detention order was up-to one year from 29.12.2022. This order of detention was challenged by Lakhan Das before this Court and it is submitted at the bar that a Division Bench of this Court has dismissed the petition filed by Lakhan Das.

4. The learned counsel for the respondent has submitted that the period of detention is over as the order was passed on 29.12.2022 and the period of detention was up-to 28.12.2023.

5. The learned Standing Counsel for the NCB has submitted that a perverse order has been passed and he has thus prayed to set aside and quash the order passed by the learned Special Judge, Rangia in connection with NDPS Case No. 24/2021 in BA No. 99/2023 wherein the learned Special Judge has observed that there is no such law which is called "*Prevention of Illicit Traffick in Narcotic Drugs, 1988*".

6. The observation of the learned Special Judge is reproduced herein below verbatim:

“....I would say that there is no such law which is called Prevention of Illicit Traffick in Narcotic Drugs, 1988”.

7. Indeed the observations of the learned Special Judge, Rangia so far as the observation that there is no law which is called “*Prevention of Illicit in Traffick in Narcotic Drugs, 1988*” is concerned, is liable to be set aside and quashed. Therefore, the observation of the learned Special Judge that there is no such law called “Prevention of Illicit Traffick in Narcotic Drugs, 1988”, is set aside and quashed.

8. This order will however not be to the prejudice of the respondent Lakhan Das whose period of detention under the PITNDPS Act has elapsed.

9. With the above terms and observations, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant