

GAHC010164382024



2024:GAU-AS:12528

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

Case No. : Bail Appln./2427/2024

HARICHARAN BISWAS
S/O LATE NARAYAN BISWAS, R/O VILL- RAJNAGAR PURBA
GANDHIGRAM, VTC- GANDHIGRAM, DIST-WEST TRIPURA, TRIPURA-
799012

VERSUS

UNION OF INDIA
REPRESENTED BY NARCOTICS CONTROL BUREAU

Advocate for the Petitioner : MR. M BISWAS, S K DAS,A GHOSAL

Advocate for the Respondent : SC, NCB,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 11.12.2024

Heard Mr. M. Biswas, learned counsel for the petitioner. Also heard Mr. S. C. Keyal, learned Standing Counsel, NCB for the respondent.

2. This is an application under Section 483 of the BNSS, 2023 praying for grant of bail to the accused/petitioner, who has been arrested in connection with NCB Crime No. 06/2024, under Section 8(c) *read with* Section 21(c) and 29 of NDPS Act.

3. The case is fixed today for furnishing of present health status report of the present accused/petitioner from the jail authority and as per order dated 20.11.2024, the Registry was directed to issue reminder to jail authority to obtain medical report from B. Borooah Cancer Institute, Guwahati. But from the report of the Superintendent, Central Jail Guwahati, it is seen that till date the jail authority is not in a position to furnish the present health status report of the accused/petitioner, though correspondences were made by the jail authority.

4. Mr. Biswas, learned counsel for the petitioner, submitted that the present accused/petitioner is a blood cancer patient and suffering from Leukemia and though he is receiving the treatment through the jail authority in B. Borooah Cancer Institute, Guwahati, but his health condition is still deteriorating and for which, he had to be admitted immediately on 04.11.2024 where the blood was given to him. He further submitted that without going into the merit of the case, the accused/ petitioner may be released on bail exclusively on medical ground as there may be further deterioration of his health if he given further treatment from jail.

5. In this context, Mr. Biswas, learned counsel for the petitioner, also relied on the decision of Hon'ble Delhi High Court which was reported in **2023 SCC OnLine Del 3270 (Vipin Mittal Vs. National Investigating Agency)** and

the order of the co-ordinate Bench of this Court passed in **Bail Appln. No. 1019/2023, dated 19.05.2023**, wherein also, the petitioners therein were granted bail only considering their health condition.

6. Mr. Keyal, learned Standing Counsel, NCB, submitted in this regard that the present accused/petitioner is reported to be a cancer patient before his arrest, but even knowing about his health condition, he was indulged in such kind of offence and he is the accused who received the parcel of the contrabands. It is a case of commercial quantity and sufficient incriminating materials are also against the present accused/petitioner. More so, the case has already been charge-sheeted on 04.12.2024 finding sufficient incriminating materials against the present petitioner. He further submitted that the present accused/ petitioner is receiving proper medical treatment through the jail authority, though, the present health status report is not available before the Court. He further submitted that only considering the health ground, the present accused/petitioner should not be granted with bail who alleged to have been committed such heinous crime.

7. In this context, he also cited a decision of Hon'ble Supreme Court passed in **SLP(Crl.) No. 9395/2024 (State of Chhatisgarh Vs. Anwar Dhebar)**, wherein it is observed by the Hon'ble Apex Court that before considering the case for grant of bail on medical ground, the Court should get an opinion from the medical board of a public hospital. Accordingly, he submitted that the present accused/ petitioner may not be enlarged on bail, however a direction may be given to the jail authority to provide proper medical treatment to the accused/petitioner.

8. Mr. Biswas, learned counsel for the petitioner, submitted in this regard that the case relied on by the learned Standing Counsel, NCB is passed on different context wherein there is no medical documents consulted by the High Court while passing the order on bail on medical ground. But, here in the instant case, it is the admitted position that the accused is suffering from blood cancer and his health condition is also deteriorated due to non-receipt of proper medical treatment inside the jail premises. He further submitted that the bail may be granted by imposing any stringent condition and he is ready to abide by all the conditions and also ready to provide the genuine bailor if he is granted with bail.

9. Considering the entire submissions made by the learned counsels for both sides and also considering the reports earlier submitted by the jail authority, it is seen that the present petitioner is suffering from Leukemia and presently he is getting treatment from B. Borooah Cancer Institute, Guwahati. It is also seen that on earlier occasion, he was also urgently admitted in the hospital and was given blood considering his health status. But, in the same time, it also cannot be denied that the present petitioner is an accused of heinous crime wherein the commercial quantity of contraband is involved and from the submission made by the learned Standing Counsel, NCB, it is seen that the present accused/petitioner is one of the main culprit in the alleged offence and the charge-sheet has already been filed against the present petitioner. However, without going into the merit of the case and other aspect of the case, only considering the medical/health ground of the present petitioner, I find that interim bail can be granted to the accused/petitioner so that he can avail further necessary and proper treatment.

10. Accordingly, the accused/petitioner, namely, Haricharan Biswas, is hereby allowed to go on interim bail on his executing a bond of Rs. 50,000/- (Rupees fifty thousand) only with two sureties of like amount, out of which one should be a government servant, to the satisfaction of the learned Special Judge, Kamrup(M), for a period of 3 (three) months from today, i.e. till 11.03.2025, subject to the following conditions:

- (i) that the petitioner shall surrender himself before the Superintendent, Central Jail, Guwahati on 11.03.2025;
- (ii) that the petitioner 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 him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioner shall submit his Aadhar Card and PAN Card etc. before the learned Special Judge, Kamrup(M); and
- (iv) that the petitioner shall obtain proper permission from the learned Special Judge, Kamrup(M), Guwahati before visiting any hospital outside his jurisdiction.

11. However, it is provided that the trial may not be affected only for the absence of the present accused/petitioner.

12. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant