

GAHC010168702024



2024:GAU-AS:12257

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

Case No. : Bail Appln./2511/2024

RUHUL AMIN @ RAHUL AMIN @ RAHUL ALI
S/O ABDUL BAREK @ BAREK ALI, P/R/A VILL- MARBEL CHAPORI, P.S.-
BHURAGAON, DIST-MORIGAON, ASSAM, P/R/O VILL- BARUATING, P.S.-
BHURAGAON, DIST- MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR A K AZAD, MR N JAMAL

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

04-12-2024

Heard Mr. A. K. Azad, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the State.

2. By this application filed under Section 483 BNSS, the petitioner, namely, **Ruhul Amin @ Rahul Amin @ Rahul Ali**, son of Abdul Barek @ Barek Ali, resident of Village-Marbeel Chapori, P.S.-Bhuragaon, District-Morigaon,

permanent address- Village- Baruating, P.S.-Bhuragaon, District-Morigaon is seeking bail in **Special (NDPS) Case No. 27/2024** under Section 20(b)(ii)(C) of the NDPS Act, arising out of Bhuragaon P.S. Case No. 13/2024 corresponding to G.R. No.228/2024, in which he was arrested on 20.02.2024 and in custody since then.

3. The petitioner is a charge-sheet accused in said Special (NDPS) Case No. 27/2024 arising out of Bhuragaon P.S. Case No. 13/2024 and Mr. Azad, learned counsel submitted that since evidence of three prosecution witnesses have already been recorded, considering his detention since 20.02.2024, he may be considered for his bail.

4. With regard to conscious possession of the narcotic substances recovered from the boat involved in the case, it is submitted by Mr. Azad, learned counsel that such narcotic substance was not recovered from the possession of the petitioner, but from the boat of which he was the driver and five of the occupants of the boat fled away from it and as such he was not in conscious possession of the narcotic substance recovered from the boat. Further, Mr. Azad submitted that the petitioner being the driver of the boat followed the order of the police and stopped the boat that indicates that he was not aware of such NDPS items in the boat.

5. Matter relates to recovery of 88.960 Kgs of Ganja from the boat (bhutbhuti) at the bank of Shivbari Ghat under Bhuragaon Police Station, concealed in the boat that was driven by the petitioner.

6. Charge-sheet in the case was laid on 18.05.2024 against the petitioner and the FSL report dated 19.03.2024 of the seized item confirmed it to be Cannabis (Ganja), a schedule NDPS item under the NDPS Act, 1985.

7. Case record of said Special (NDPS) Case No. 27/2024 that was called for by the Court indicates that after framing of charge in said Special (NDPS) Case No. 27/2024 evidence of three prosecution witnesses have been recorded so far upto 06.11.2024. As per the charge-sheet there are altogether six prosecution witnesses.

8. Considering the fact that trial of said (NDPS) Case No. 27/2024 arising out of Bhuragaon P.S. Case No. 13/2024 is progressing regularly and till date, three prosecution witnesses have already been recorded, the Court is of the view that detention of the petitioner, Ruhul Amin @ Rahul Amin @ Rahul Ali in custody since 20.02.2024 cannot be considered for his bail in said Special (NDPS) Case No. 27/2024 that has arisen out of Bhuragaon P.S. Case No. 13/2024.

9. Accordingly, this bail application of the petitioner, Ruhul Amin @ Rahul Amin @ Rahul Ali in said Special (NDPS) Case No. 27/2024 arising out of Bhuragaon P.S. Case No. 13/2024 **stands rejected.**

JUDGE

Comparing Assistant