

GAHC010173092023



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

Case No. : Bail Appln./2836/2023

MUSTAFA ALI @ MOSTAFA ALI
S/O LT. FAIZUL ALI
R/O CHANGSARI PUKHURIPAR
P.S. CHANGSARI
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09-01-2024

Heard Mr. A. Paramanik, learned counsel for the accused and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

This application, under Section 439 Cr. P. C. is preferred by accused, Mustafa Ali @ Mostafa Ali, who has been languishing in jail hajot since 13.07.2023, in connection

with Changsari P.S. Case No. 231/2023, under Section 22(C) of NDPS Act, for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by one S.I.(UB) Birakson Ramchiary, on 13.07.2023.

The essence of allegation, made in the FIR, dated 13.07.2023, is that on 13.7.2023 at about 6-25 PM, he alongwith police party apprehended one Honda Activa Scooty, bearing registration No. AS-01-FB-1320, which was coming from Guwahati towards Baihata Chariali and on being searched, they have recovered 11 bottles of Chlorpheniramine Mealeate and Codeine Phosphate, syrup weighing 1100 M.L and 14 strips Nitrazetam tablets total 140 nos. and cash amount of Rupees 14,850/- and also one mobile phone, from the storage of scooty, which was driven by the accused Mustafa Ali.

Mr Paramanik, learned counsel for the accused submits that the accused was arrested on 13.07.2023, and since then he has been languishing in jail hajot for last 181 days and that the mandatory period of detention is already over and till date no charge sheet has been submitted by the I.O. and on such count the accused is entitled to default bail and therefore, it is contended to allow the petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. submits that he has received the case diary, but the FSL report is not available in the same and the case is pending for collection of the FSL report only. Mr. Borua further submits that till date 181 days over and no prayer by the I.O. was made for extension of the time for investigation also

Having heard the submission of learned Advocates for both the parties, I have carefully gone through the petition and the documents placed on record.

It appears that the accused was arrested on 13.07.2023, and since then, he has been languishing in jail hajot for last 181 days. Admittedly, no charge sheet has been submitted till date and also no prayer is made for extension of time of investigation. It appears that the case is also pending for collection of FSL report only.

Under the aforesaid facts and circumstances and also considering the period of detention, this Court is of the view that the accused is entitled to default bail and accordingly, it is provided that on furnishing a bond of Rs.50,000/-with one surety of like amount to the satisfaction of the learned Special Judge, Kamrup, Amingaon, the accused be enlarged on bail.

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

JUDGE

Comparing Assistant