

GAHC010175122024



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

Case No. : Bail Appln./2578/2024

SANJU DEVI
W/O SANKAR DAS, VILL- RAMPUR, CHAYAMCHAND, P.S.-RAGHPUR, DIST-
VAISHALI, BIHAR

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M KHAN, MS J AKTAR
Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

30.08.2024

Heard Mr. M. Khan, learned counsel appearing for the accused-petitioner as well as Mr. R. J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. By this petition filed under Section 439 Cr.P.C., the accused-petitioner, namely, **Sanju Devi**, has prayed for grant of bail in connection with Special (Nar) Case No. 03 (Bgn)/2024, arising out of Bongaigaon GRPS Case No. 119/2023, registered under Sections 20(b)(ii) C/29 of the NDPS Act.

3. The brief fact of the case is that on 03-11-2023, an FIR was lodged before the New Bongaigaon GRP-IC, alleging inter alia that based on secret information an operation of checking was carried out in Tripura Sundari Express Train No. 14619 and recovered approximately 20.5 Kgs of cannabis from three accused persons namely Sanju Devi, Prity Kumari and Shaheen Khatun. Thereafter, the alleged contraband was seized and the women were arrested.

4. It is submitted by the learned counsel for the petitioner that the allegation made in the FIR and after going through the charge-sheet, it appears that the alleged quantity of contraband, 20.5 Kgs ganja, was recovered from three accused persons and the quantity recovered from each accused is 5.7 Kgs from Sanju Devi; 6 Kgs from Prity Kumari and 3.7 Kgs from Shaheen Khatun. Therefore, the quantity of contraband recovered from each accused is lesser than commercial quantity. The recovery made from the co-accused could not be clubbed together to make the same commercial quantity. Accordingly, the rigors of Section 37 of the NDPS Act could not apply in the facts and circumstance of the case.

5. According to learned counsel of the petitioner, the accused-petitioner has been detained in custody for last 300 days, since her arrest on 04-11-2023, and considering the nature of offence as well as length of detention of the petitioner, she may be enlarged on bail.

6. In support of his submissions, the learned counsel for the petitioner has placed reliance on the case of Sukhdev Singh vs State of Punjab, in CRM-M53872-2021 IO & M), Decided on 27.04.2022.

7. It is further submitted that out of three accused, bail was granted to two

accused persons vide BA No. 617/2024 and the petitioner may be enlarged on bail on the same footing.

8. Learned Additional Public Prosecutor has made no objection in granting bail to the petitioner on the ground shown in BA No. 617/2024 on 20.04.2024.

9. Admittedly, the contraband seized from the possession of the petitioners individually will not come under the rigors of Section 37 of the NDPS Act, i.e., commercial quantity.

10. In view of the above, since the recovery from the petitioner is of a noncommercial quantity, the rigors of Section 37 of the NDPS Act is not applicable to the case of the petitioner. It also appears that the petitioner has been in custody for last 300 days and the investigation has been completed. Though the charge has been framed by the trial court, no witness has been examined in the case.

11. Accordingly, the accused-petitioner, named above, shall be released on bail, on furnishing bail bond of Rs.1,00,000/- with two suitable sureties of the like amount, to the satisfaction of learned Special Judge, Bongaigaon.

12. The direction for bail is further subject to the conditions that the petitioner:

(a) shall not leave the territorial jurisdiction of learned Special Judge, Bongaigaon, without prior written permission from him/her;

(b) The learned Special Judge, Bongaigaon, will 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 to procure her attendance during trial.

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

JUDGE

Comparing Assistant