

GAHC010178712024



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

Case No. : Bail Appln./2620/2024

RAHUL KUMAR SINGH
S/O LATE RAM SINGH, RAM BIHARI SINGH, R/O VILL- ISWARPURA, P.O.
AND P.S.-SAHPUR, DIST-BHOJPUR, BIHAR

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE STANDING COUNSEL, N.F. RAILWAYS

Advocate for the Petitioner : MR. V N UPADHYAY, MS P MISHRA, MR P DAS

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 20.09.2024

Heard Mr. P. Das, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State.

2. By this bail application filed under section 483 of the Bharatiya Nagarik Suraskha Sanhita, 2023, the accused petitioner namely, **Rahul Kumar**

Singh, has prayed for bail in connection with **NDPS Case No. 57/2024** under Section 20(b)(ii)(C) of NDPS Act, pending in the court of learned Additional Sessions Judge No. 2, Kamrup(M), Guwahati.

3. The learned counsel for the accused/petitioner submits that the petitioner has been detained in custody for last 324 days since his arrest on 31.10.2023. On the date of the incident, the petitioner was traveling in Rajdhani Express with eight unknown individuals when four bags were found, containing a total of 59.138 kg of ganja. According to learned counsel for the petitioner, the bags do not belong to the petitioner and he was sitting on the upper berth of the said coach and he has no knowledge regarding the said contraband. The petitioner was arrested solely on suspicion. It is also submitted that charge was framed but till date, no any witness has been examined. In view of the acquisition spelt out against the petitioner as well as considering the period of detention, bail may be granted to the petitioner.

4. On the other hand, Mr. Sarma, learned Additional Public Prosecutor has submitted that the petitioner is the owner of the alleged bags from which commercial quantity of ganja weighing about 59 kg was recovered. Charge was framed on 27.03.2024 and the case is fixed for evidence of the witnesses. As the commercial quantity of ganja was recovered from the possession of the petitioner, Section 37 of NDPS Act is attracted here in this case. It is also submitted that no any witness was examined till date. Considering the fact as well as the nature of the offence, bail may not be granted to the petitioner at this stage of trial.

5. I have considered the submissions made by the learned counsel for the parties. I have also perused the scanned copy of trial court.

6. It appears that the petitioner was arrested on 31.10.2023. Charge sheet was submitted on 16.02.2024 i.e. within the stipulated time of investigation. Charge was framed on 27.03.2024 and thereafter, summons were issued to the witnesses. It also appears that commercial quantity of ganja was recovered in connection with the case. None of the witnesses has been examined till date. Apparently, there is no delay in proceeding of the case. Situated thus, interference by this Court is not permissible at this stage.

7. The NDPS Act is a special Act with an inbuilt mechanism in the form of Section 37 relating to bail. The commercial quantity of contraband were recovered from the possession of the petitioner.

8. The Hon'ble Supreme Court in the case of ***Chandrakeshwar Prasad Vs. State of Bihar***, reported in ***(2016) 9 SCC 443***, has laid down in clear terms that interest of the society is a relevant factor to be taken into account while considering the prayer for bail. For ready reference, the relevant paragraphs of the said case are extracted herein below:

"10. This Court in Rajesh Ranjan Yadav @ Pappu Yadav v. CBI through its Director (2007) 1 SCC 70 balanced the fundamental right to individual liberty with the interest of the society in the following terms in paragraph 16 thereof:

"We are of the opinion that while it is true that Article 21 is of great importance because it enshrines the fundamental right to individual liberty, but at the same time a balance has to be struck between the right to individual liberty and the interest of society. No right can be absolute, and reasonable restrictions can be placed on them. While it is true that one of the considerations in deciding whether to grant bail to an accused or not is whether he has been in jail for a long time, the

court has also to take into consideration other facts and circumstances, such as the interest of the society."

9. On consideration of the matter in its entirety, this Court is not inclined to grant bail to the accused/petitioner, at this stage. Therefore, prayer for bail is rejected. However, trial court is directed to expedite the trial, to dispose of the matter early.
10. In view of the above, the bail application stands disposed of.

JUDGE

Comparing Assistant