

GAHC010186822024



2024:GAU-AS:10820

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

Case No. : Bail Appln./2827/2024

NIAZ @ NIAJ UDDIN
S/O LT. JOMSED ALI
R/O NAIRGRAM
P.S. KARIMGANJ
DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A CHOUDHURY, MR A AHMED,U U KHAN,MR. A AHMED

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

05.11.2024

Heard Mr. A Ahmed, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2) By this application filed under Section 483 BNSS, 2023, the petitioner, namely, **Niaz @ Niaj Uddin**, son of Late Jomsed Ali, resident of village Nairgram, Police Station-Karimganj, District-Karimganj has prayed for his bail in **Special (NDPS) Case No. 148/2023**, arising out of Karimganj Police Station Case No. 889/2023 under Section 22(C)/25/29 of the NDPS Act, 1985, corresponding to G.R. No. 2449/2023, in which, he was arrested on 18.11.2023 and is in custody since then.

3) As per the FIR dated 17.11.2023 of the case, the case is that on receipt of specific information on 17.11.2023 that one suspected drug peddler, namely, Niaj Uddin of Nairgram is transporting drugs in his auto bearing Registration No. AS-10-C-2940 from Kaliganj to Chorgola after making necessary entry in the general diary with due authorisation police personnel from Karimganj Police Station with the necessary tool kit and the NDPS kit, weighing machine etc. reached Chorgola and started naka checking. During such naka checking, the said auto rickshaw was intercepted and asking the introduction of each driver the petitioner introduced himself. In presence of independent witnesses in public, the petitioner was searched in person and his auto rickshaw was also searched. During such search, one black colour polythene bag, covered by potato from a multi colour bag was recovered. In presence of witnesses, when the said black colour polythene bag covered by potato in the multicolour bag was opened, 48 Nos. of black colour plastic packets, each containing approximately 200 Nos. of suspected Yaba tablets were recovered. While weighing each of the packet, it was found to be of 0.022 kg and while weighing all the Yaba tablets recovered from 48 Nos. of black coloured plastic packets, it was found to be 1.060 kgs (without packets). Those suspected Yaba tablets were seized and the petitioner was taken into custody.

4) The said FIR of the complainant was accordingly registered as Karimganj Police Station Case No. 889/2023 under Sections 22(C)/25/29 of the NDPS Act, 1985. Petitioner was produced

before the learned Chief Judicial Magistrate, Karimganj on 18.11.2023 and since then, he is in custody.

5) Mr. Ahmed, learned counsel for the petitioner submitted that the as the charge sheet in the case has already been submitted in February 2024, his further custodial detention in the case is not warranted.

6) It is also submitted by the petitioner that he shall abide by all the terms and conditions that is enforced upon him by the Court.

7) By order dated 19.09.2024, scanned copy of the records of said Special (NDPS) Case No. 148/2023 along with the copy of Karimganj Police Station Case No. 889/2023 was called for.

8) From the records of the case, it is seen that the FSL report dated 15.12.2023 of the seized suspected Yaba tablets confirmed that those gave positive tests for Methamphetamine.

9) After completion of the investigation of the case, police on 29.02.2024, submitted the charge sheet against the petitioner under Section 22(C)/25/29 of the NDPS Act, 1985.

10) From the records of the case it is seen that the learned Special Judge cum Sessions Judge, Karimganj, on 28.03.2024 considered the said charge sheet filed in the Case and thereafter said Karimganj P.S. Case No. 889/2023 was re-registered as Special (NDPS) Case No. 148/2023.

11) From the case records, it is seen that on 12.07.2024, charge under Sections 22(C)/25/29 of the NDPS Act, 1985 was framed against the petitioner, to which, the petitioner claimed to be tried. From the charge sheet it is also seen that there are only 7 (seven) prosecution witnesses named in it.

12) Considering the recovery of huge quantity of Yaba tablets (more than commercial quantity) containing Methamphetamine, a scheduled NDPS drug, from the conscious possession of the petitioner, where charge under Sections 22(C)/25/29 of the NDPS Act, 1985 has already been framed against him and the trial of the case is in progress, this Court is of the opinion that it is not a fit case to grant bail to the petitioner considering his detention in custody since 18.11.2023.

13) As there is prima-facie involvement of the petitioner in procuring, transporting and trafficking of 1.060 kgs of Yaba tablets containing Methamphetamine that was recovered from the conscious possession of the petitioner, as noted above, this bail application of the petitioner,

namely, **Niaz @ Niaj Uddin**, son of Late Jomsed Ali, in Special (NDPS) Case No. 148/2023, arising out of Karimganj Police Station Case No. 889/2023 stands **rejected**.

JUDGE

Comparing Assistant