

GAHC010194362024



2024:GAU-AS:12203

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

**Case No. : Bail Appln./2847/2024**

VISHESHWAR RAY

S/O- LATE NAGINA RAY, PRESENT ADDRESS- 8TH MILE, BARIDUA, P.S.  
KHANAPARA, DIST. RI-BHOI, MEGHALAYA AND PERMANENT ADDRESS-  
MOHIUDDIN PUR, GARAH, P.O. GARAH, MAKUNDPUR GARAH, DIST.  
VAISHALI, BIHAR, PIN- 844504.

VERSUS

THE STATE OF ASSAM

REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. N ANAND, MR H ALI**

**Advocate for the Respondent : PP, ASSAM,**

**BEFORE**  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**03-12-2024**

Heard Mr. N. Anand, 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, 2023, the petitioner, namely, **Visheshwar Ray**, son of late Nagina Ray, resident of 8<sup>th</sup> Mile, Baridua, Police Station-Khanapara, District- Ri-Bhoi, Meghalaya, permanent address- Mohiuddin Pur, Garahi, P.O.-Garahi, Makundpur Garahi, District-Vaishali, Bihar is seeking bail in **NDPS Case No. 83/2023** arising out of Basistha Police Station Case No. 187/2023 under Section 20(b) (ii) (C) of the NDPS Act, 1985 corresponding to G.R. No.2319/2023, wherein he was arrested on 04.04.2023 and is in custody since then.

**3.** As per the FIR dated 03.04.2023 lodged before the Officer-in-Charge of Basistha Police Station by the complainant, Sub-Inspector of Police of Jorabat Outpost, under Basistha Police Station, the case is that on receipt of specific information from the In-Charge of Jorabat Outpost around 05:30 PM on 03.04.2023 that an aged person been dealing with drugs in and around 8<sup>th</sup> mile area since long time, Jorabat Outpost GD Entry No.73 dated 03.04.2023 was made and with due authorization, police personnel from Jorabat Outpost went out in search of the said person. After some time, the accused person was identified and he was apprehended and in presence of independent witnesses a search was made during which 20.441 Kgs of suspected Ganja in 5 numbers of white colour polythene bags and Rs.60,300/- was recovered from him, that

were seized in presence of independent witnesses.

**4.** After filing of the said FIR, the said accused was arrested on 04.04.2023 and was produced before the Court of learned Chief Judicial Magistrate, Kamrup (M), Guwahati .

**5.** The petitioner submitted that since 04.04.2023, he is languishing in jail and though charge was framed against him, till date the prosecution has not examined any of its witnesses. As such, the petitioner is seeking bail in said **NDPS Case No. 83/2023** arising out of Basistha Police Station Case No. 187/2023.

**6.** By order dated 20.09.2024, the Court called for the records of said **NDPS Case No. 83/2023** from the Court of learned Special Judge (NDPS), Kamrup (Metro), Guwahati.

**7.** On perusal of the case records, it is seen that after arrest of the petitioner on 04.04.2023, police on 22.06.2023 submitted the charge-sheet in said Basistha Police Station Case No. 187/2023 vide Charge-Sheet No. 199/2023 against the petitioner under Section 20 (b)(ii)(C) of the NDPS Act, showing six numbers of prosecution witnesses in the case.

**8.** From the case records, it is seen that the said charge-sheet was placed before the learned Special Judge (NDPS), Kamrup (M), Guwahati on 10.07.2023. Thereafter, said Basistha Police Station Case No. 187/2023 was re-registered as NDPS Case No. 83/2023 and the charge in the case was framed on 20.07.2023 under Section 20 (b)(ii)(C) of the NDPS Act against the petitioner.

**9.** It is seen from the case records that the learned Special Judge (NDPS), Kamrup (M), Guwahati on 17.08.2023, 14.09.2023, 10.10.2023, 16.11.2023, 14.12.2023, 10.01.2024, 07.02.2024, 05.03.2024, 02.04.2024, 18.04.2024,

14.05.2024, 11.06.2024, 08.07.2024, 05.08.2024, 02.09.2024, 23.09.2024 and 04.11.2024 fixed the matter for evidence but on none of those dates, the prosecution could produce any of its witnesses before the learned Special Judge (NDPS), Kamrup (M), Guwahati during the trial of the said case.

**10.** It is submitted that on 14.11.2024, as well as even yesterday i.e., on 02.12.2024 the case was fixed for evidence of the prosecution witnesses, but the prosecution did not produce any of its witnesses.

**11.** The FSL report dated 12.06.2023 of the seized items in the case gave positive test of Cannabis, a Scheduled NDPS item.

**12.** From the case records it is seen that in the charge-sheet there are only 6 prosecution witnesses, out of which, two are seizure witnesses, one is Sub Inspector Police, serving at Jorabat Police Outpost, another is the concerned Investigating Officer of the case and the third one is from the Forensic Laboratory, Guwahati, Assam.

**13.** It is seen that due to non production of the prosecution witnesses by the respondent State till date, the trial of the case did not commence, though the charge in the case was framed on 20.07.2023. For the last 13 months, the petitioner in the case in hand who was arrested on 04.04.2023 is languishing in jail without any progress in the trial of the said NDPS Case No. 83/2023.

**14.** Considering such state of the prosecution in failing to adduce any evidence before the learned Special Judge (NDPS), Kamrup (Metro), Guwahati, for which the trial of the case did not commence since 17.08.2023, the Court is of the view that the petitioner, who is in custody since 04.04.2023, is entitled for his bail in said **NDPS Case No. 83/2023** arising out of Basistha Police Station Case No. 187/2023 under Section 20(b) (ii) (C) of the NDPS Act, 1985

corresponding to G.R. No.2319/2023.

**15.** Accordingly, the petitioner, namely, **Visheshwar Ray**, son of late Nagina Ray, is granted bail in said **NDPS Case No. 83/2023** arising out of Basistha Police Station Case No. 187/2023 on furnishing a bail bond of Rs. 1,00,000/- with two local sureties of the like amount, one of which shall be government employee, either State Government or Central Government, to the satisfaction of the learned Special Judge (NDPS), Kamrup (Metro), Guwahati on conditions that the petitioner – **(i)** shall appear before the learned Special Judge (NDPS), Kamrup (Metro), Guwahati in said NDPS Case No. 83/2023 arising out of said Basistha Police Station Case No. 187/2023 on the dates it is fixed before the said Court and as and when he is required before the said Trial Court; **(ii)** shall surrender his passport, if any, before the learned Special Judge (NDPS), Kamrup (Metro), Guwahati on or before 11.12.2024; **(iii)** shall not leave the territorial jurisdiction of the learned Special Judge (NDPS), Kamrup (Metro), Guwahati, without obtaining prior written permission from the said authority; **(iv)** shall not hamper with the investigation or tamper with the evidence of the case; **(v)** shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer and further **(vi)** shall not indulge himself in any such criminal activities including possession or procurement and transportation of such NDPS items, failing which, the bail granted to him in said NDPS Case No. 83/2023 arising out of said Basistha Police Station Case No. 187/2023 shall stand automatically vacated.

**16.** Any violation of the aforesaid terms and conditions by the petitioner, named above, the bail granted to him in the aforementioned NDPS Case No. 83/2023 arising out of Basistha Police Station Case No. 187/2023 shall stand

automatically vacated.

**17.** Bail application stands allowed to the extent above.

**JUDGE**

**Comparing Assistant**