

GAHC010201482024



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

Case No. : Bail Appln./2945/2024

MOTALEB ALI
S/O LATE ALEB ALI,
REIDENT OF VILLAGE BORGHOLA PART I, PS JOGIGHOPA, DIST
BONGAIGAON, ASSAM 783388

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

Advocate for the Petitioner : MR. A Z AHMED, MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22.10.2024

Heard Mr. H R A Choudhury, learned Senior Counsel assisted by Mr. A Z Ahmed, learned counsel for the petitioner and Mr. B Sharma, learned Additional Public Prosecutor, Assam for the State.

2) By this application filed under section 483 of the Bharatiya Nagarik Suraksha

Sanhita, 2023, the petitioner, namely **Motaleb Ali**, S/o Lt. Aleb Ali, resident of village Borghola Pt-1, P.S. Jogighopa, District Bongaigaon, is praying for his bail in connection with Jogighopa Police Station Case No. 151/2024 registered under Section 21(a) of the NDPS Act, 1985 corresponding to NGR No. 419/2024, in which he was arrested on 20.09.2024 and is in custody since then.

3) As per the FIR dated 19.09.2024 lodged by the WSI(P) of Jogighopa Police Station, on the basis of specific information that one person namely Motaleb Ali from village-Borghola Pt-1, P.S.-Jogighopa, is involved in selling and dealing in illicit trafficking of narcotic drugs and psychotropic substances at Pallitol market area, GD entry vide GD Entry No. 26/2024 dated- 19.09.2024 was registered and with due authorisation, police proceeded to the concerned market in search of the said Motaleb Ali.

4) On reaching the spot in the evening around 06:20 PM, the shop of the petitioner was searched and during such search (i) 3 (three) Strips of Tramadol Hydrochloride, Acetaminophen & Dicyclomine Hydrochloride capsules containing 72 numbers of tablets and (ii) 9 (nine) strips of Nitrazepam tablets IP 10 mg, containing 89 numbers of tablets were recovered in a black colour polythene inside a cartoon of his shop. However, during his body search no such NDPS items were recovered.

5) Suspected such 3 (three) Strips of Tramadol Hydrochloride, Acetaminophen & Dicyclomine Hydrochloride capsules as well as the 9 (nine) strips of Nitrazepam tablets IP 10 mg being narcotic drugs and psychotropic substances, the petitioner was taken into custody and the necessary due inventory was made on 19.09.2024.

6) It is seen that though the seized substances were sent for FSL report, but the same is yet to be received from the concerned authority.

7) From the case diary placed before the court today by Mr. B Sharma, learned Additional Public Prosecutor, Assam it is seen that the inventory report dated 19.09.2024 does not disclose the total weight of 3 (three) Strips of Tramadol Hydrochloride, Acetaminophen & Dicyclomine Hydrochloride capsules except mentioning 72 numbers of such capsules in 3 (three) strips. However, with regard to

the 9 (nine) strips of Nitrazepam tablets IP 10 mg in 89 numbers, it is specified that each tablet contains IP of 10mg.

8) From the above, it is seen that the suspected NDPS items recovered from the petitioner, is less than commercial quantity.

9) For the reasons above and considering the length of detention of the petitioner since 19.09.2024, the Court is of the view that further custodial detention of the petitioner is not warranted for investigation of the said Jogighopa Police Station Case No. 151/2024.

10) This bail application of the petitioner in said Jogighopa Police Station Case No. 151/2024 is accordingly accepted. The petitioner, namely, **Motaleb Ali**, S/o Lt. Aleb Ali be released on bail in said Jogighopa Police Station Case No. 151/2024 on furnishing a bail bond of Rs. 50,000/- with 2(two) local sureties each of the like amount to the satisfaction of the learned Special Magistrate, North Salmara, Abhayapuri, subject to the conditions that petitioner, named above, shall -

i) appear before the concerned Investigating Officer of said Jogighopa Police Station Case No. 151/2024, as and when he is required for necessary investigation of the case;

ii) not leave the territorial jurisdiction of said Jogighopa Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case;

iii) not hamper with the investigation, or tamper with the evidence of the case;

iv) 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;

v) not involve himself with any criminal activities.

11) Any violation of the aforesaid terms and conditions by the petitioner, Motaleb Ali, the bail granted to him in the abovenoted Jogighopa Police Station Case No.

151/2024 shall stand automatically vacated.

12) Return the Case Diary herewith.

JUDGE

Comparing Assistant