

GAHC010204312024



2024:GAU-AS:11666

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

Case No. : AB/2629/2024

MUKTAJAL ALI
S/O MD. MUJIBUR RAHMAN
R/O SARUPATHAR SUNARI BASHTI
P.S. JAMUNAMUKH, DIST. HOJAI, ASSAM, PIN-782427

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR B M DEKA, MR. Z H BORA, MR F H LASKAR (2), MR. M ALAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 26.11.2024

Heard Mr. B. M. Deka, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 482 of the BNSS, 2023 praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Jamunamukh P.S. Case No. 19/2024, under Section 22(c)/29 NDPS Act.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Deka, learned counsel for the petitioner, that one case has already been registered before the Jamunamukh Police Station wherein 2 (two) co-accused persons have been intercepted by police wherefrom 11,520 numbers of Sampex capsules were recovered which were kept in 2 (two) bags in the motorcycle and on their interrogation only, they made the statement incriminating the present petitioner's involvement in the alleged offence. However, nothing has been recovered from the possession of the present accused/petitioner. Neither any incriminating materials nor any contraband was recovered from the possession of the accused/petitioner. He is no way connected in the alleged offence and more so, the confession made by the co-accused before the police cannot be taken into consideration and accordingly, he submitted that it is a fit case wherein the privilege of pre-arrest bail can be granted to the present accused/petitioner. However, he will appear before the I.O. as and when his presence will require.

Mr. Baruah, learned Additional Public Prosecutor, has submitted in this regard that from the materials available in the Case Diary, it is seen that the present accused/petitioner is the kingpin of the case who used to supply the contraband to the persons to sell the same in the market and in the present

case also, there was a recovery of 11,520 numbers of capsules which is commercial in nature and accordingly, the case has been registered under Section 22(c)/29 of NDPS Act. He further relied on a decision of **The State of Haryana Vs. Samarth Kumar [2022 LiveLaw (SC) 622]**, wherein the Hon'ble Apex Court has expressed the view that the ratio of **Tofan Singh Vs. State of Tamil Nadu [(2021) 4 SCC 1]** may be applicable in the case of regular bail, but that cannot be considered at the time of anticipatory bail application.

Considering the entire submissions made by the learned counsels for both sides and the nature of allegation viz-a-viz the materials collected so far by the I.O., I do not find it a fit case to extend the privilege of pre-arrest bail to the present accused/petitioner at this stage and accordingly the same stands rejected.

The anticipatory bail application stands disposed of in terms above.

JUDGE

Comparing Assistant