

GAHC010004942024



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

Case No. : AB/75/2024

BHAGABAN BAISHYA
S/O SIBA RAM BAISHYA
R/O VILL- 01 NO. NAKUL RANGIA
P.O. AND P.S. RANGIA
DIST. KAMRUP, ASSAM
PIN-781354

VERSUS

THE UNION OF INDIA
REP. BY THE STANDING COUNSEL, CENTRAL BUREAU OF
INVESTIGATION (CBI)

Advocate for the Petitioner : MR S C DAS
Advocate for the Respondent : SC, CBI

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

01.02.2024

Heard Mr. M. I. Hussain, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Addl. Public Prosecutor for the State/respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Nasir**

Mandal @ Nasir Uddin Montal, has prayed for grant of bail in connection with **Special Case No. 22/2022 under Section 22(b)/29 arising out of Agomoni P.S. Case No. 67/2021 u/s 22(C)/29 of the NDPS Act.**

The scanned copy of case record, as called for, is placed before this Court.

The accused petitioner is behind the bar since 03.09.2022, i.e. for 516 days.

It is submitted on behalf of the petitioner that the contraband consisting of 1000 YABA tablets and 200 grams of suspected brown sugar was recovered from an abandoned house and not from the petitioner's house. It submitted on behalf of the petitioner that his wife noticed movement of some unknown persons in the CCTV footage and lodged an FIR which was registered as Golakganj PS Case No.205/2021 and GR Case No. 1179/2021. It is submitted on behalf of the petitioner that two unknown persons were arrested 10 kilometers away in front of the petitioner's house and on their statement the petitioner's house was searched when nobody was present in the abandoned house. The seizure has thus been made in an illegal manner in the absence of the petitioner or any of his family members. It is submitted that two persons gave their statements against him and they are in no way connected to the petitioner. It is submitted that when the petitioner was absent from his house it cannot be held that YABA tablets were seized from his possession.

Mr. M. P. Goswami, learned Addl. Public Prosecutor has raised serious objection stating that charges were framed on 18.04.2022 and 6 out of 9 witnesses have already been examined.

I have considered the submissions at the bar with circumspection. The FIR which was lodged by the petitioner's wife being GKJ PS Case No. 205/2011 ended in a final report.

I have scrutinized the scanned copies of the LCR of GR Case No. 1179/2011 and the Special Case No. 22/2022. The trial is proceeding at a regular pace. Charges were framed on 18.04.2022 and 6 out of 9 are examined. 3 witnesses are yet to be examined. At this juncture, the merit of the case is not taken into consideration as it appears that trial is likely to be concluded soon. The embargo under Section 37 of the NDPS Act acts as a fetter to the bail application.

Consideration all aspects, the bail prayer of the petitioner stands rejected at this stage of trial. However, the learned trial court is directed to expedite the trial for speedy disposal of the case.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant