

GAHC010204842024



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

Case No. : Bail Appln./2986/2024

HABIBUR ALI @ DHAN AND ANR
SON OF ROHIMUDDIN ALI, RESIDENT OF -DHARAPUR MOJULI, PS-
AZARA DIST- KAMRUP(M), ASSAM

2: REKIBUL ALI @ REKIB
SON OF KHOBIRUDDIN ALI
RESIDENT OF -DHARAPUR MOJULI
PS- AZARA
DIST- KAMRUP(M)

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR K THAKUR, MR. S SARKAR, MS. P. NAIDING, MR D MEDHI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 07.11.2024

Heard Mr. K.Thakur, learned counsel for the petitioners as well as Mr. D.P.Goswami, learned Addl. P.P., Assam for the State respondent.

By filing this petition under Section of the 483 Bharatiya Nagarik Suraksha Sanhita, 2023 the accused-petitioners, namely, **1. Habibur Ali @ Dhan** and **2. Rekibul Ali @ Rekib** have prayed for grant of bail in connection with **Palashbari P.S. Case No.336/2024** under Sections 21(c)/29 of NDPS Act.

The allegation in the FIR dated 10.09.2024 in brief is that 410 grams of suspected heroin was recovered and seized from the possession of the petitioners.

The learned counsel for the petitioners submits that initially it is reflected in the FIR that 410 grams of suspected heroin was recovered from the possession of the petitioners and as such, the case was registered under Section 21 (c) of the NDPS Act. But as per the inventory report of the learned Magistrate, weight of the contraband was 224 grams which falls in the intermediate quantity. The petitioners have been languishing in judicial custody for last 59 days since their arrest on 11.09.2024. Considering length of detention, the petitioner may be enlarged on bail.

The learned Addl.P.P. has produced the case diary without the FSL report and also admits that the contraband recovered from the possession of the accused petitioners are 224 grams of heroin which is intermediate quantity. However, length of detention may be considered.

Having heard the learned counsel for the parties and on perusal of the case diary and the averments made in this petition, it appears that the petitioners are in judicial custody for last 59 days and considering length of detention, further custodial detention of the petitioners in the interest of investigation is not warranted.

Accordingly, it is provided that the petitioners named above shall be released

on furnishing bail bond of **Rs. 50,000/-** each with two sureties each of like amount to the satisfaction of the learned **Special Judge, Kamrup (R), Amingaon**, subject to the following conditions;-

- (i) The petitioners shall not leave the territorial jurisdiction of learned **Special Judge, Kamrup (R), Amingaon**, without prior written permission from him/her;
- (ii) That the petitioners shall cooperate with the Investigating Officers as and when required;
- (iii) That the petitioner 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 him from disclosing such facts to the Police Officer or the Court.

Violation of any condition shall tantamount to cancellation of bail.

This disposes of the bail application.

Return the case diary.

JUDGE

Comparing Assistant