

GAHC010206192024



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

Case No. : Bail Appln./3012/2024

NAAMAN RESHO RENGMA AND ANR
S/O JADAV RENGMA, R/O VILL- ENGLONGPO, P.O.-MALONGSO, P.S.-
DIPHU, DIST- KARBI ANGLONG, ASSAM, PIN-782460

2: SMT. CHRISTINA TISSOPI
W/O NAAMAN RESHO RENGMA
R/O VILL- ENGLONGPO
P.O.-MALONGSO
P.S.-DIPHU
DIST- KARBI ANGLONG
ASSAM
PIN-78246

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : ALHAJJ I UDDIN, H M I HOQUE, MR ROBIUL HOQUE

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

23-10-2024

Heard Mr. A. I. Uddin, learned counsel for the petitioners and Ms. S. B. Hazarika, learned Additional Public Prosecutor, Assam for the State.

2) By this application filed under Section 439 Cr.P.C., the petitioners, namely, **(1) Naaman Resho Rengma** son of Jadav Rengma and **(2) Smt. Christina Tissopi**, wife of Naaman Resho Rengma are seeking bail in **NDPS Case No. 08/2023**, arising out of Howraghat P.S. Case No. 19/2022 corresponding to G.R. No. 158/2022 registered under Sections 22(C)/29 of the NDPS Act, 1985, wherein, they were arrested on 25.08.2022 and is in custody since then.

3) Mr. Uddin, learned counsel for the petitioners placing the evidences of first four prosecution witnesses, recorded by the learned Trial Court, submitted that there was no recovery of any such NDPS items from the physical possession of the petitioners. Mr. Uddin, learned counsel for the petitioners also submitted that the recovery was made from the paddy field and further, from the seizure list, Mr. Uddin, learned counsel for the petitioners submitted that they were neither the owners of the seized vehicle involved in the case, nor the driver of the said vehicle and that they were only traveling from Nagaon to Diphu in the said vehicle.

4) Placing the provisions of Section 22 of the NDPS Act, Mr. Uddin, learned counsel for the petitioners submitted that the petitioners are neither manufacturers, nor possessors, purchasers or sellers or transporters or importers/exporters of such NDPS item and as such the prosecution has wrongly implicated them under Section 22(C) of the NDPS Act, 1985.

5) In view of the above, considering their period of detention in custody for more than 2 years since 25.08.2022, Mr. Uddin, learned counsel for the petitioners submitted that the petitioners should be released on bail. It is also submitted by Mr. Uddin, learned counsel that the petitioners are the local residents of Karbi Anglong and as such, if they are released on bail in said NDPS Case No. 08/2023, they are ready to comply with any terms and conditions that

may be imposed upon them.

6) Ms. S. B. Hazarika, learned Additional Public Prosecutor, Assam submitted that the NDPS items were recovered from the conscious possession of the petitioners and that too, huge numbers of more than 8500 Samplex+ Capsules, in total 8568 Capsules, where the FSL report clarifies that it gave the positive test for Tramadol containing 48.05 mg per Capsule.

7) Mr. Hazarika, learned Addl. PP, also submitted that the learned Trial Court have already examined nine prosecution witnesses out of twelve such prosecution witnesses, named in the charge-sheet of the case.

8) Ms. Hazarika, learned Addl. PP, objected to the bail prayer of the petitioners stating that if, at this stage, while recording of the prosecution witnesses are going on, if the petitioners are released on bail, it will prejudice the trial of the case.

9) Perused the records of NDPS Case No. 08/2023 that was called for by the Court by order dated 01.10.2024, from the Court of learned Special Judge (NDPS), Karbi Anglong, Diphu.

10) It is seen that acting on a reliable authentic information regarding the illegal transportation of large quantity of suspected NDPS items from Nagaon to Diphu via Howraghat concealing inside a red colour Maruti 800 car bearing Registration No.AS-02-A-4999 and police personnel of Dokmoka Police Station with due authorization proceeded to the needful so as to intercept the said vehicle the said vehicle though was asked to stop at Parokhowa Bazar Chowk during Naka Checking at NH-36 on the date of the incident, i.e., on 25.08.2022, but the concerned vehicle managed to escape and fled away towards Howraghat in a very high speed. The said fleeing vehicle was chased by police

personnel in its police vehicle and after chasing the vehicle for some time, the said vehicle was apprehended along with petitioners and another at the Howraghat-Parokhowa Road at Koroijhar village near Ok Reng Gaon with the help of Officer-in-Charge and staff of Howraghat Police Station and local public.

11) It is seen from the records of the case that during search of the vehicle in due manner, Samplex+ Capsules of 59 packets and strips, each one packet containing 6 strips where one strips of such contain 24 Capsules, in total 8568 Capsules from the said vehicle.

12) The FSL report dated 03.11.2022 indicated that such seized Tablets per Capsules gave positive tests for Tramadol with 48.05 mg per Capsule and such 8568 Tramadol Capsules seized from the vehicle concerned is more than commercial quantity.

13) From the records of the case, it is also seen that out of evidences of nine prosecution witness so far recorded by the learned Trial Court, one of the independent witness adduced evidence that while he was travelling in his Motorcycle with his friend towards Ok Reng, he saw a red colour Maruti 800 car travelling in a very high speed, which police could manage to stop at Howraghat-Parokhowa Road near Ok Reng Gaon and during search of the said vehicle in his presence, police recovered one bag from inside the said vehicle that carried three passengers including the driver and a lady and recovered more than 8500 numbers of Capsules, which police told him that those are suspected to be drugs.

14) The concerned seizure witness indicated that those Capsules were counted in his presence and the seizure list was prepared by police in his presence.

15) It is also seen from the records that as on 16.07.2024 evidence of nine prosecution witness have been recorded by the learned Special Judge (NDPS), Karbi Anglong in said NDPS Case No. 08/2023.

16) From the Charge-Sheet of the case filed in said NDPS Case No. 08/2023 arising out of Howraghat P.S. Case No. 19/2022, it is seen that it contains a list of thirteen such prosecution witnesses, out of which nine such prosecution witnesses have so far been examined.

17) Considering the evidence of independent seizure witness and the recovery of huge quantity of Tramadol NDPS items from the conscious possession of the petitioners, this Court is of the view that considering their detention since 25.08.2022, it is not a fit case to grant bail to the petitioners, named above, in said NDPS Case No. 08/2023, arising out of Howraghat P.S. Case No. 19/2022 corresponding to G.R. No. 158/2022.

18) Accordingly, this bail application of the petitioners in said NDPS Case No. 08/2023 stands rejected, at this stage.

JUDGE

Comparing Assistant