

GAHC010207562024



2024:GAU-AS:10084

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

Case No. : Bail Appln./3034/2024

MINHAJ UDDIN BORBHUIYA
S/O LATE ABDUL KADIR BORBHUIYA, R/O VILL- HARINAGAR PT-I, P.S.-
KATIGARH, DIST- KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY, A S PRODHANI, S. TALUKDAR

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

03.10.2024

Heard Mr H R Choudhury, learned counsel for the petitioner, Minhaj Uddin Borbhuiya, who has filed this application under Section 483 of the BNSS, 2023, with prayer for bail as he is behind bars since 10.07.2024, in connection with Special NDPS Case No. 79/2024, arising out of Badarpur PS Case No. 195/2024, under Section 22(c)/29 of the NDPS Act, 1985.

2. Heard Mr M P Goswami, learned Additional Public Prosecutor for the State of

Assam.

3. The allegation against the petitioner is that he was caught in possession of around 2 kgs of Yaba tablets, the weight of which is included with the packets.
4. It is submitted on behalf of the petitioner that the petitioner has been blinded by blunt force impact as he was tortured in the Police Station. The enquiry was conducted by the CJM and after receiving the enquiry report of the CJM, learned Sessions Judge has opined vide order dated 05.09.2024 that it cannot be inferred from the enquiry report that the petitioner's vision was impaired by the torture inflicted upon him in the Police Station.
5. It is submitted that the petitioner underwent operation in Nepal, which is reflected in the medical report of the jail. The medical report dated 23.09.2024 is a report by the Medical Board, which clearly reveals that there is a history of eye operation in Nepal, in the year 2021.
6. I have scrutinized the medical report.
7. The Medical Board suggested that the patient may be considered to be examined in a Higher Centre for needful.
8. The learned Additional Public Prosecutor has raised serious objection against the treatment on interim bail, stating that this is a serious offence and there is every possibility that the petitioner may flee from justice and the embargo under Section 37 of the NDPS Act, restricts the bail.
9. Learned counsel for the petitioner has assiduously submitted for treatment outside

the jail. He has prayed for interim bail to enable the petitioner to undergo treatment for his eye problem.

10. After scrutinizing the medico-legal report submitted by the Medical Board, it is hereby provided that the petitioner may be provided treatment at the GMCH. At present, the petitioner may be provided treatment at Silchar Medical College and Hospital (SMCH) and the petitioner may be shifted to GMCH for proper eye-treatment. Higher treatment may also be provided to the petitioner in any other better facility also, if necessity arises.

11. At this juncture, I am not inclined to grant interim bail to the petitioner, as investigation is still under progress.

12. Petition with prayer for bail stands rejected at this stage.

13. Send back the Case Diary.

JUDGE

Comparing Assistant