

GAHC010208932024



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

Case No. : Bail Appln./3051/2024

MD RAFIJUL ISLAM
S/O MD. RASID ALI RESIDENT OF GOTLONG, SAMRA, GUDAAM, PS
TEZPUR, DIST SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY, MR M HOQUE

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 15.10.2024

Heard Mr. B. Chowdhury, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam.

2. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 has been filed by the petitioner, Md. Rafijul Islam, who has been detained behind the bars since 28.08.2024 in connection with Tezpur Police Station Case no. 318/2024 under Section 21(b)/29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

3. The gist of the accusation in this case is that on 03.06.2024 one Chanakya Das, Sub-

Inspector of Police had lodged an FIR before the Officer-In-Charge, Tezpur Police Station, inter-alia, alleging that on receipt of an information through reliable sources 2 [two] persons namely Aminur Rahman and Biki Hainary were arrested and from their possession 11.26 grams (with container) and 6.14 grams (without container) of heroin was recovered respectively. During the course of investigation, the arrested accused persons also disclosed the name of the present petitioner as involved in selling and transportation of the suspected heroin since long time.

4. The learned counsel for the petitioner has submitted that the accused persons from whose possession the recovery has been made in this case, were granted bail by the trial court on 16.08.2024. However, though no recovery has been made from the present petitioner, who is languishing behind the bars merely on the basis of the statement of the accused persons who are already released from bail.

5. The learned counsel for the petitioner has submitted that the petitioner has been detained behind the bars for last 49 days and considering the facts of this Court, they may be allowed to go on bail. He submits that the petitioner is ready to co-operate in the trial with the Investigating Officer (I.O.) of the case.

6. On the other hand, the learned Additional Public Prosecutor opposed the grant of bail to the present petitioner on the ground that the case diary, which was called for, is not available before this Court. He has also submitted that the present petitioner was arrested only on 28.08.2024 much later than the accused persons already released on bail and therefore, the investigation with regard to them is still under progress.

7. I have considered the submissions made by the learned counsel for both the sides and have perused the materials on record.

8. It appears from the record that no recovery of any contraband was made from the present petitioner and it also appears that he was mainly arrested on the basis of the statement of the accused persons from whose possession the contraband was recovered.

Both the persons from whose possession the contraband was recovered are already granted bail. Moreover, the petitioner has already completed 49 days of detention. Hence, considering the facts and circumstances of this case as well as the period of detention, his further custodial detention does not appear to be necessary if he co-operates in the investigation.

9. In view of the above, the petitioner Md. Rafijul Islam is allowed to go on bail of Rs. 30,000/- (Rupees Thirty thousand only) with one surety of like amount to the satisfaction of the learned Special Judge, Sonitpur, Tezpur subject to the following conditions :-

- (i) That the petitioner shall co-operate in the investigation; and
- (ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

10. With the above observation, this bail application is accordingly disposed of.

11. Send back the case diary.

JUDGE

Comparing Assistant