

GAHC010211052023



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

Case No. : AB/3316/2023

KAMAL UDDIN
S/O ABDUL BARI,
VILL.- SOUTH BANDORKUNA, P.S.- PATHARKANDI, DIST.- KARIMGANJ,
ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 05.03.2024

Heard Mr. A. M. Bora, learned Senior Counsel assisted by Mr. V. A. Chowdhury, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Special (NDPS) Case No. 169/2022, pending before the Additional District & Sessions Judge, FTC, Karimganj, Assam, arising out of Bazaricherra P.S. Case No. 210/2022, registered under Sections 21(C)/22(C)/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Charge-Sheet No. 73, dated 31.05.2023.

Mr. Bora, learned Senior Counsel for the petitioner, has submitted that after investigation, the case has already been Charge-Sheeted showing the petitioner as absconder in the Charge-Sheet and upon the said Charge-Sheet, the learned Court below has taken cognizance of the offence under Sections 21(C)/22(C)/25/29 of the NDPS Act against the petitioner and other co-accused, where the petitioner has been shown as absconder in the Charge-Sheet and thereafter, issued process to them. Mr. Bora further submitted that the present petitioner is innocent and he is a permanent resident of his addressed locality with sufficient movable and immovable property and he is ready to face trial and therefore, it is prayed that he may be allowed to appear before the learned Court below and till then, interim protection may be extended to him.

On the other hand, Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam, has submitted that there are materials against the petitioner and based on which the I.O. has submitted Charge-Sheet against him showing him as absconder.

Since, Charge-Sheet has already been submitted and summon has been issued to the petitioner by the learned Court below and since the petitioner undertakes to appear before the learned Court below and to face trial, this Court is inclined to dispose of this anticipatory bail application by directing the petitioner to appear before the learned Court below within 15 (fifteen) days from the date of this order and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law.

In the meantime, till his appearance before the learned Court below, no coercive action shall be taken against the present petitioner.

In terms of above, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant