

GAHC010211452023



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

Case No. : Bail Appln./3347/2023

MD IRFAN KHAN
S/O LT. SHERA
R/O VILL- GOMTHOU
P.S. LILONG,
DIST. THOUBAL, MANIPUR.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 05-02-2024

Heard Ms. S.K. Nargis, learned counsel for the petitioner *Md. Irfan Khan*.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure, 1973 with prayer for bail as he is behind bars since 21.06.2023 in connection with NDPS Case No. 203/2022 arising out of Panbazar

Police Station Case No. 163/2022 registered under Sections 21(c) of the NDPS Act, 1985.

3. It is submitted on behalf of the petitioner that he is behind bars since 21.06.2022 for around 594 (Five Hundred Ninety Four) days. The petitioner is in hospital as he is suffering from Tuberculosis. 13 (Thirteen) witnesses are enlisted in the witness list but only one witness has been examined so far. Charges were framed on 15.12.2022 and since then only one witness has been examined.

4. Heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State. The Additional Public Prosecutor has submitted that the petitioner has been booked under a serious offence. Charge has been laid against him as he is a drug peddler who deals in drug from Myanmar rooted through Tezpur. He deals in drug crossing international borders. The petitioner is not entitled to bail. The delay is due to the health condition of the petitioner and not due to any other reason. It cannot be said that the petitioner's personal liberty has been curtailed.

5. I have considered the submissions at the bar with circumspection and I have also perused the medical documents with his health status report from the LGB Chest Hospital. It is clear from the report dated 11.01.2024 that the petitioner was admitted with complain of cough, tinge of blood in sputum, fever and generalized weakness and anti TB treatment was started on 22.06.2023 but it was withheld due to anti TB treatment induced hepatitis till July, 2023. Investigation has been advised to the petitioner.

6. I have perused the scanned copies of the LCR and I have also considered the health status report of the petitioner. The scanned copies of the LCR reveal

that charges were framed on 15.12.2022. Evidence of only one witness has been recorded so far. The offence alleged against the petitioner is a serious offence as charge under Section 21(c) of the NDPS Act has been framed against the petitioner. The petitioner is charged of cross border transportation of drug. I have considered the health status report of the petitioner. The health status report of LGB Chest Hospital clearly reveals that the petitioner is suffering from Tuberculosis. The fact that only one witness out of 13 (Thirteen) witnesses has been examined so far cannot be ignored, but at the same time it cannot be held that the petitioner's personal liberty has been curtailed due to procrastination of the trial by the prosecution.

7. Considering the peculiar circumstances of this case as the petitioner is suffering from Tuberculosis and as there is complain of cough, tinge of blood in sputum, I deem it a fit case to grant bail to the petitioner. The petitioner is enlarged on bail on furnishing a bail bond of Rs.1,00,000/- (Rupees One Lac) with two solvent sureties of like amount to the satisfaction of the learned trial Court. The trial Court to impose other bail conditions, which the Court deems fit and proper to secure attendance of the petitioner. The trial Court is also directed to expedite the trial for speedy disposal of the case.

In the above terms this Bail Application stands disposed of.

JUDGE

Comparing Assistant