

GAHC010215402023



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

Case No. : Bail Appln./3452/2023

NIRAJ KUMAR
S/O MOHESHWAR ROY
R/O P.S. AND DIST. BUXAR, BIHAR

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR T THAKURIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

12.01.2024

Heard Mr T Thakuria, learned counsel for the petitioner, Niraj Kumar and Mr M P Goswami, learned Additional Public Prosecutor for the State of Assam.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail, as he is behind bars since 05.07.2023, in connection with Guwahati GRPS Case No. 111/2023, under Sections 20(b)(ii)(C) of the NDPS Act.

3. Case Diary has not been received.
4. The learned counsel for the petitioner has submitted a certified copy of the order of the learned trial Court dated 02.01.2024. The copy will form a part of this record.
5. It is submitted that the order reflects that vide order dated 02.01.2024, the co-accused have been granted default bail in connection with GRPS Case No. 111/2023.
6. I have considered the submissions at the Bar with circumspection.
7. It is submitted on behalf of the petitioner that the petitioner was arrested on 05.07.2023, but till 02.01.2024, charge sheet was not laid against the petitioner. The petitioner is entitled to default bail as mandated under Section 167(2) of the Code of Criminal Procedure, 1973, as the petitioner has filed this application on 29.02.2023 before any charge sheet was submitted against the petitioner.
8. It is submitted that the petitioner is languishing in jail for more than 180 days.
9. I have considered the submission that till 02.01.2024, charge sheet was not laid against the petitioner, who had preferred this bail application under Section 439 CrPC on 22.09.2023.
10. It is true that the petitioner is booked under Sections 20(b)(ii)(C)/29 of the NDPS Act, but as charge sheet was not laid against the petitioner till 02.01.2024, the petitioner is entitled to bail. The petitioner is enlarged on bail of Rs. 1,00,000/- (Rupees One Lac) only with two local sureties of the like amount to the satisfaction of the learned Special

Judge , Kamrup (Metro), under the conditions that:-

- i) the petitioner shall refrain from such activities with which he is alleged,
- ii) the petitioner shall not tamper with the evidence.
- iii) the petitioner shall appear before the learned trial Court on every date fixed, and,
- iv) the petitioner shall not jump the bail.

On breach of any bail conditions, bail order shall stand cancelled.

11. Bail Application stands disposed of.

JUDGE

Comparing Assistant