

GAHC010217182024



2024:GAU-AS:12599

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

**Case No. : Bail Appln./3149/2024**

GITA DEVI AND 12 ORS  
W/O LARAN MAHATO, VILL- GANDHIGARH BINTOLI, P.S.-KURSHELA,  
DIST- KATIHAR, BIHAR

2: SUNITA DEVI  
W/O LT. BIJOY SINGH  
VILL- DHANSAR BHUDSA  
P.S.-MANSHI  
DIST-KHAGARIA  
BIHAR

3: NANKI DEVI  
W/O BHOLA MANDAL  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR  
BIHAR

4: ANITA DEVI  
W/O RAMLAKHAN RAY  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR (BIHAR)

5: HEMA DEVI  
W/O DASARATH MAHATO  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR (BIHAR)

6: PINKI DEVI  
W/O ARBIND MAHATO  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA

DIST- KATIHAR (BIHAR)

7: MAMTA DEVI  
W/O PAGOL MANDAL  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR (BIHAR)

8: RUNA DEVI  
W/O SAKKAL MAHATO  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR (BIHAR)

9: PHUL DEVI  
W/O GANGA MANDAL  
VILL- BHARATPUR  
P.S.-KHARIK BAZAR  
DIST- BHAGALPUR  
BIHAR

10: SULEKHA DEVI  
W/O JITENDER MANDAL  
VILL- COMPANY BAG  
P.S.-KATOWALI  
DIST- BHAGALPUR  
BIHAR

11: LAXMI DEVI  
W/O SAKKAL MAHATO  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR (BIHAR)

12: JANKI DEVI  
W/O RAMANAND MAHATO  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR (BIHAR)

13: USHA DEVI  
W/O BIDYANAND MAHATO  
VILL- GANDHIGARH BINTOLI  
P.S.-KURSHELA  
DIST- KATIHAR (BIHAR)

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : MOTIUR RAHMAN, MR. NOOR KUTUB ALAM, MR. A S TAPADER

**Advocate for the Respondent** : PP, ASSAM,

**BEFORE**  
**HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**12.12.2024**

Heard Mr. M Rahman, learned counsel for the petitioners and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State.

**2.** The petitioners, namely, (i) **Gita Devi**, wife of Laran Mahato; (ii) **Sunita Devi**, wife of late Bijoy Singh; (iii) **Nanki Devi**, wife of Bhola Mandal; (iv) **Anita Devi**, wife of Ramlakhan Ray; (v) **Hema Devi**, wife of Dasharath Mahato; (vi) **Pinki Devi**, wife of Arbind Mahato; (vii) **Mamta Devi**, wife of pagol Mondal; (viii) **Runa Devi**, wife of Sakkal Mahato; (ix) **Phul Devi**, wife of Ganga Mandal; (x) **Sulekha Devi**, wife of Jitender Mandal; (xi) **Laxmi Devi**, wife of Sakkal Mahato; (xii) **Janki Devi**, wife of Ramanand Mahato and (xiii) **Usha Devi**, wife of Bidyanand Mahato, all resident of Bihar have filed this application under Section 483 BNSS, 2023, praying for their release on bail in **Special (NDPS) Case No. 99/2023 arising out of Lumding GRPS Case No. 39/2023** registered under Sections 20(b)(ii)(c)/29 of the NDPS Act, 1985, in which they were arrested on 12.05.2023 and are in custody since then.

**3.** Petitioners herein are charge-sheeted accused under Sections 20(b)(ii)(c)/29 of the NDPS Act, 1985 in said Special (NDPS) Case No. 99/2023 arising out of Lumding GRPS Case No. 39/2023, trial of which is presently pending before the Court of learned Special Judge (NDPS), Hojai, in which they were arrested on 12.05.2023 and are in custody since then.

**4.** The contentions of the petitioners are that since 12.05.2023 they have been

languishing in jail as under-trial prisoners and that though 20.6 Kgs of Ganja (Cannabis) have been recovered jointly from them, but before making any such seizure, the concerned seizing officer did not serve them any notice as required under Section 50 of the NDPS Act. It is also urged on behalf of the petitioners that instead of weighing the NDPS items allegedly recovered from each of the petitioners individually, the concerned officer weighed the said alleged NDPS items in together.

**5.** Mr. M Rahman, learned counsel for the petitioners submitted that as per the Seizure Memo as well as the Charge-Sheet, 40 bags of different sizes were recovered from the possession of the petitioners, but police personnel while recovering/seizing those 40 bags containing suspected Ganja did not weigh each bag of the petitioners individually, thereby committed illegality.

**6.** It is further argued on behalf of the petitioners that for such default on the part of the prosecution/State in seizing the alleged NDPS items from the petitioners, the ultimate decision will be of acquittal of the petitioners due to non-compliance and violation of the provisions specified in the NDPS Act and the relevant Rules in force, noted above.

**7.** As such, Mr. M Rahman, learned counsel for the petitioners submitted that considering their detention since 12.05.2023, they should be considered for their bail in said Special (NDPS) Case No. 99/2023 arising out of Lumding GRPS Case No. 39/2023.

**8.** Perused the case records that was called for by order dated 08.10.2024.

**9.** It is seen that Charge-Sheet in said Lumding GRPS Case No. 39/2023 was filed on 30.09.2023 and that charge under Sections 20(b)(ii)(c)/29 of the NDPS Act read with Section 34 of the IPC was framed by the learned Special Judge against the petitioners on 22.12.2023.

**10.** From the case records, it is seen that the prosecution have already adduced evidence of eight prosecution witnesses from its side who were thoroughly cross-examined by the defence. Further, by order dated 12.11.2024, prosecution evidence in said Special (NDPS) Case No. 99/2023 has already been closed and the matter is now pending for statement of defence and the last date was 09.12.2024.

**11.** Though the petitioners are submitting that provision of Section 50 of the NDPS Act for service of notice at the time of search and seizure were not complied with, but at the time of

framing of charge, the petitioners did not object to framing of such charge under the NDPS Act nor they filed any such application in that regard before the appropriate forum against framing of such charge by the learned Trial Court against them.

**12.** Moreover, prosecution evidence is already closed and the matter is now fixed for statement of defence.

**13.** Considering the above, this Court is not inclined to grant bail to the petitioners, named above, in said Special (NDPS) Case No. 99/2023 arising out of Lumding GRPS Case No. 39/2023.

**14.** Accordingly, this bail application of the petitioners, named above, in said Special (NDPS) Case No. 99/2023 arising out of Lumding GRPS Case No. 39/2023 pending before the Court of the learned Special Judge (NDPS), Hojai, stands rejected.

**JUDGE**

**Comparing Assistant**