

GAHC010217462024



2024:GAU-AS:11724

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

Case No. : Bail Appln./3166/2024

MUSTT MALEKA BIBI
RESIDENT OF VILLAGE MOHIBUL SEIKH
RESIDENT OF VILLAGE NIJ CHINTAPUR, PO DURGAPUR, PS BERHAMPUR,
DIST MURSHIDABAD, WEST BENGAL 742187

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

Advocate for the Petitioner : MR. M HUSSAIN, MR. A Z AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

27/11/2024

Heard Mr. M Hussain, learned counsel for the petitioner and Ms. S H Bora, learned Additional Public Prosecutor, Assam for the State respondent.

2. This application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioner, namely, **Mustt. Maleka Bibi**, wife of Mohibul Seikh, resident of Village-Nij-Chintapur, P.S. Berhampore, District-Murshidabad, West Bengal, seeking bail in **Sessions (Special)**

Case No. 352/2011 arising out of **Guwahati GRPS Case No. 55/2011** registered under Sections 20(b)/29 of NDPS Act.

3. It is contended by the petitioner that since 28.08.2024, she is in custody and recording of evidence of prosecution witnesses are not yet completed. Considering the above, her bail application should be considered.

4. During the deliberation of the matter, Mr. Hussain, learned counsel for the petitioner also submitted that after trial of the case, the co-accused arrested together with the petitioner earlier has already been acquitted in said Guwahati GRPS Case No. 55/2011.

5. Perused the case record that was called for by order dated 08.10.2024.

6. Initially, the petitioner along with other accused was arrested in said Guwahati GRPS Case No. 55/2011 on 24.07.2011 and in October, 2011, she was released on bail pursuant to an order passed by a co-ordinate Bench of this Court.

7. Charge in the case was framed under Section 20(b)(ii)(B) of the NDPS Act against the petitioner and the other co-accused on 11.06.2012.

8. As the petitioner did not appear before the learned Special Judge (NDPS), Kamrup (Metro), Guwahati during the trial of the case, an order of Non-Bailable Warrant of Arrest was issued against her for her appearance in said case, but the petitioner could not be arrested and as such, said Sessions (Special) Case No. 352/2011 arising out of Guwahati GRPS Case No. 55/2011 was split up by order dated 19.07.2019.

9. The learned Special Judge (NDPS), Kamrup (Metro), Guwahati after recording evidence acquitted the other accused of the case and considering the matter by judgment dated 07.07.2023 acquitted the other accused, Samiran Bewa.

10. Since 04.05.2016, the petitioner did not appear before the learned Trial Court. Later, on the strength of the NBWA issued against the petitioner, she was arrested on 28.08.2024 and the trial of said Sessions (Special) Case No. 352/2011 with regard to the petitioner is presently pending in the evidence stage.

11. Considering the above and the conduct of the petitioner, this Court is of the view that the period of detention of the petitioner, named above, in custody since 28.08.2024 cannot be considered

for her bail in said Sessions (Special) Case No. 352/2011 arising out of Guwahati GRPS Case No. 55/2011.

12. Accordingly, this bail application of the petitioner, **Mustt. Maleka Bibi**, in said **Sessions (Special) Case No. 352/2011** arising out of **Guwahati GRPS Case No. 55/2011** stands rejected.

JUDGE

Comparing Assistant