

GAHC010225222024



2024:GAU-AS:11707

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

**Case No. : Bail Appln./3386/2024**

BIJAY BAISHYA  
S/O LT. NIKHIL BAISHYA, R/O VILL- PACHIM KUSHLAIGURI, P.S.-  
MANIKPUR, DIST- BONGAIGAON, ASSAM, PIN-783391

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : MR. U B SARMA, MRS. G SARMA

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

**BEFORE**  
**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**26-11-2024**

Heard Mr. U. B. Sarma, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the State.

**2.** Apprehending his arrest, the petitioner, namely, Sri Bijay Baishya, son of Late Nikhil Baishya, resident of Village-Pachim Kushlaiguri, P.S.-Manikpur, District-Bongaigaon has filed this application under Section 482 BNSS seeking

pre-arrest bail in **Special (NAR) Case No. 101(M)/2024** under Section 20(C) of the NDPS Act arising out of Manikpur P.S. Case No. 75/2024.

**3.** Petitioner is a charge sheeted accused in Manikpur P.S. Case No. 75/2024 under 20(C)/29 of the NDPS Act in which he was arrested on 22.05.2024. Charge under Section 20(C) NDPS Act has been framed against the petitioner on 05.09.2024 in Special (NAR) Case No. 101(M)/2024 arising out of said Manikpur P.S. Case No. 75/2024 which is presently pending before the Court of learned Special Judge (NDPS)-cum-Sessions Judge, Bongaigaon.

**4.** Considering his detention since 22.05.2024, petitioner has filed this bail application on 24.10.2024 under Section 483 BNSS praying for his bail in said Special (NAR) Case No. 101(M)/2024 arising out of said Manikpur P.S. Case No. 75/2024 stating that he shall abide by any terms and conditions that may be imposed upon him by the Court while considering his case for bail.

**5.** Petitioner further contended that he is solely maintaining his family he does not have any previous criminal record so far and was never involved in any such type of cases. As he is in jail for last 6 months since 22<sup>nd</sup> May, 2024, his family is in hardship in maintaining it.

**6.** By order dated 07.11.2024, the Court call for the records of said Special (NAR) Case No. 101(M)/2024 arising out of said Manikpur P.S. Case No. 75/2024.

**7.** From the perusal of the records of the case, it is seen that matter relates to recovery of 41.034 Kgs of Ganja, recovered 2 packets under the bed of the petitioner weighing 5.056 Kgs 0.541 kg and 7 packets from his betel nut garden that is in located in the backside of his house weighing 5.566 Kgs, 5.137 Kg, 4.550 Kgs, 5.116 Kgs, 5.044 Kgs, 5.165 Kgs and 5.160 Kgs. The FSL report

dated 18.07.2024 confirmed the seized NDPS items from the conscious possession of the petitioner as Cannabis (Ganja) a Scheduled NDPS item, that too, in commercial quantity.

**8.** From the case record, it is also seen that though petitioner in his statement before police stated that said packets of Ganja was given to him by a person named Binod from Udalguri, but he did not disclose about his address or others so as to identify and locate the person concerned named by the petitioner.

**9.** Charge-sheet in the case contains 10 witnesses and it is seen that after framing of charge in the case on 05.09.2024, the Court of learned Special Judge (NDPS), Bongaigaon have already recorded the evidence of three of the prosecution witnesses as on 03.10.2024.

**10.** Considering the above and since the trial of the Case is progressing, the Court is of the view that his detention in custody since 22.05.2024 cannot be considered for bail of the petitioner in said Special (NAR) Case No. 101(M)/2024 arising out of said Manikpur P.S. Case No. 75/2024.

**11.** Accordingly, this bail application of the petitioner, namely, **Sri Bijay Baishya** in said **Special (NAR) Case No. 101(M)/2024** arising out of said Manikpur P.S. Case No. 75/2024 pending before the Court of learned Special Judge (NDPS), Bongaigaon **stands rejected**.

**JUDGE**

**Comparing Assistant**