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

Case No. : Bail Appln./3388/2024

RAJAL UDDIN TALUKDAR
S/O MANFAR ALI TALUKDAR, R/O VILL- GARMURA, KALLANBAK, P.O.-
JAMIRA AND P.S.-RAMNATHPUR, DIST- HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR SISHIR DUTTA, MR S DUTTA,MR. SIDHANT DUTTA,MS S
MOCHAHARI

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

05.12.2024

Heard Mr. Sishir Dutta, the learned senior counsel assisted by Mr. S. Dutta, the learned counsel appearing for the petitioner. Also heard Mr. D. Das, the learned Addl.

Public Prosecutor, Assam.

2. This is an application under Section 483 of the BNSS, 2023 whereby the petitioner Rajal Uddin Talukdar who is facing trial in Special (NDPS) Case No.154/2022 pending in the court of learned Sessions Judge, Karimganj prayed for releasing him on bail.

3. 2558.41grams of suspected heroine was recovered from the possession of the present petitioner. Police filed the *charge sheet* on 14.04.2023, wherein 21(twenty-one) witnesses are cited as prosecution witnesses. Out of them, two are already examined and 19 are yet to be examined. The petitioner has already spent 2 years and 30 days in judicial custody.

4. Mr. Sishir Dutta has submitted that in this case, his period of detention deserves to be taken as a ground for releasing him on bail.

5. Mr. Dutta has submitted that two witnesses who were already examined by the trial court have not implicated the present petitioner.

6. In order to buttress his point, Mr. Dutta has relied upon a decision of the Hon'ble Supreme Court that was delivered in *Special Leave to Appeal (Crl.) No.4648/2024 (Ankur Chaudhary -versus- State of Madhya Pradesh)*, wherein it has been stated that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental rights guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act, may, in such circumstances, be considered.

7. Mr. Dutta further relied upon another decision in *Harish Mia @ Harij Miah -versus- State of Assam*, passed in *Bail Application No.2475/2023*. In this case also, the prolonged incarceration of the petitioner was considered and the bail was granted.

8. Mr. Das has confined his arguments only within the objection filed by the State.

Mr. Das submits that it was a commercial quantity and the entire search and seizure was videographed and photographed.

9. According to Mr. Das, during investigation, it was found that they had peddling of huge number of contraband on earlier occasions using another vehicle belonging to the present petitioner. Mr. Das has further pointed out that the entire contraband was seized from the possession of the present petitioner.

10. I have given my anxious considerations to the submissions made by the learned counsel of both sides.

11. The petitioner has already completed 2 years 30 days in judicial custody and only two witnesses are examined whereas 19 other witnesses are yet to be examined. This Court is of the opinion that there is no possibility of early disposal of the case. Therefore, considering the long period of incarceration, the petitioner deserves to be allowed to go on bail.

12. For the aforesaid reasons, the bail application of the petitioner is allowed.

13. Accordingly, the petitioner Rajal Uddin Talukdar who is facing trial in Special (NDPS) Case No.154/2022 pending in the court of learned Sessions Judge, Karimganj shall be released on bail of ₹1,000,00/- (Rupees One Lakh) with a surety of like amount to the satisfaction of the learned Sessions Judge, Karimganj.

With the aforesaid direction, the bail application is disposed of.

JUDGE

Comparing Assistant