

GAHC010231312024



2024:GAU-AS:12436

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

Case No. : Bail Appln./3409/2024

MD SAHA ALI AND ANR
S/O AKBAR ALI, R/O BIDYAPUR, P.S.-URIAMGHAT, P.O.- DIST- GOLAGHAT,
ASSAM, PIN-785601

2: RAHIMA KHATUN
W/O LATE ABDUL JALIL
R/O NO. 3
DAYALPUR
P.S.-URIAMGHAT
DIST-GOLAGHAT
ASSAM
PIN-78560

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M AHMED, MS A SIDDIKA, MS S AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

09-12-2024

Heard Mr. M Ahmed, learned counsel for the petitioners and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

2. The petitioners, namely, (i) **Md. Saha Ali**, son of Akbar Ali, resident of village-Bidyapur, P.S.-Uriamghat, District-Golaghat and (ii) **Rahima Khatun**, wife of late Abdul Jalil, resident of village- No. 3 Dayalpur, P.S.-Uriamghat, District-Golaghat have filed this application under Section 483 BNSS, 2023 praying for their release on bail in Uriamghat Police Station Case No. 18/2024 registered under Sections 21(C)/29 of the NDPS Act, 1985, corresponding to G.R. No. 64/2024, in which they were arrested on 24.06.2024 and are in custody since then.

3. According to the petitioners they are no way connected with the case and have been falsely implicated in it. It is also submitted that considering their detention since 24.06.2024 for more than five months, they should be considered for their bail.

4. It is also submitted on behalf of the petitioners that they shall abide by any terms and conditions that may be imposed by the Court upon them, if considered for their bail.

5. From the case diary placed before the Court it is seen that on the basis of specific information received on the intervening night of 22.06.2024 and 23.06.2024 that the petitioner No. 1 concealed huge quantity of NDPS items in the house of the petitioner No. 2 and that both of them are in the illegal trade of NDPS items since long, police personnel with due authorization from Uriamghat Police Station along with investigation kit, drugs detection kit, digital weighing machine, videographer with camera reached the location of the petitioners in which they were residing. Since their arrival the police personnel from Uriamghat Police Station surrounded the house till the morning of 23.06.2024 and in presence of local public and VDP members, the house of the petitioner No. 2 was searched on 23.06.2024 by independent witnesses as per the provisions of the NDPS Act. At the same time, body search of both the petitioners was also conducted following the due process. During thorough search of the house of the petitioner No. 2, in her kitchen three polythene bags, one containing five soap boxes, the second containing ten soap boxes, the third with nine soap boxes, together twenty four soap boxes were recovered.

6. Accordingly, on 23.06.2024 the FIR was lodged before the Uriamghat Police Station which was registered as Uriamghat Police Station Case No. 18/2024 under Sections 21(C)/29 of the NDPS Act, 1985.

7. From the case records, it is also seen that on opening of those soap boxes by the police personnel from Uriamghat Police Station by following the due procedure, Heroin packed with plastic packets were found in those twenty four soap boxes. On weighing those Heroin with the

help of digital weighing machine without the soap boxes in presence of independent witnesses, 269.94 Grms. of Heroin were recovered from the conscious possession of the petitioners from those recovered three polythene bags.

8. Accordingly, all such NDPS items recovered from the conscious possession of the petitioners have been seized and after making due inventory before the Court, on drawing samples from it, those were sent to the FSL for its examination and necessary report. It is seen that the FSL report is awaited.

9. As the case diary placed before the Court indicates sufficient incriminating materials regarding the involvement of the petitioners in the alleged crime, particularly, in the illegal possession, procurement, selling of NDPS items like Heroin, the Court is of the view that their detention since 24.06.2024 cannot be considered for their bail in said Uriamghat Police Station Case No. 18/2024.

10. Accordingly, this bail application of the petitioners, namely, (i) **Md. Saha Ali**, son of Akbar Ali and (ii) **Rahima Khatun**, wife of late Abdul Jalil, in Uriamghat Police Station Case No. 18/2024, corresponding to G.R. No. 64/2024 stands rejected.

11. Return the case diary herewith.

JUDGE

Comparing Assistant