

GAHC010233542024



2024:GAU-AS:12114

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

Case No. : Bail Appln./3393/2024

AJIBUR @ MAJIBUR RAHMAN
S/O RUSTOM ALI,
R/O VILL- RAJBHORAL, P.S. TEZPUR
P.O. BHOJKHOWA,
DIST. SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S DEWRI, MR A DEKA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

02-12-2024

Heard Mr. S. Dewri, learned counsel for the petitioner and Mr. K. K. Parasar, learned Additional Public Prosecutor, Assam for the State.

2) Petitioner, namely, **Ajibur @ Majibur Rahman**, son of Rustom Ali, resident of Village Rajbhoral, Bhojkhowa, Police Station-Tezpur, District-Sonitpur has filed this application under Section 483 BNSS, 2023 praying for his bail in

NDPS Case No. 65/2024, arising out of Tezpur P.S. Case No. 169/2024 corresponding to G.R. No. 537/2024 under Section 20(b)(ii)(C) of the NDPS Act, 1985, in which he was arrested on 15.04.2024 and in custody since then.

3) As per the FIR of the case dated 03.04.2024 on 02.04.2024 around 11:00 pm while the police personnel from Borghat Outpost was doing their patrolling at Bhojkhowa Chapori area, found one Scooty bearing Registration No. As-12AJ-3573 with one rider carrying one plastic sack. When the police patrolling party signaled the said Scooty to stop it, its rider entered the house premises of one Ishab Ali and fled away keeping the said scooty of said Ishab Ali taking advantage of the darkness though the police patrolling party tried to apprehend the rider of the scooty but they could not due to darkness. While checking the said scooty in presence of independent witnesses, one plastic sack containing Ganja was found. Accordingly, the matter was brought to the notice of the Officer-in-Charge of Tezpur Police Station and with due authorization, police carried out the search in presence of independent witnesses. During such search, the said sack was found filled with 4 packets of suspected Ganja where, the first packet contained 5.130 Kgs, the second packet contained 5.090 Kgs, the third packet contained 5.100 Kgs and the forth packet contained 5.050 Kgs and altogether, 20.450 Kgs. Thereafter, following the due process, said suspected Ganja was seized along with the Scooty bearing Registration No. As-12AJ-3573 and then, returned to Tezpur Police Station, wherein, the complainant, In-charge of Boraghat Outpost lodged the FIR, that was accordingly registered as Tezpur P.S. Case No. 169/2024, noted above.

4) Petitioner stated that owner of the said Scooty bearing Registration No. As-12AJ-3573 that was seized in said Tezpur P.S. Case is his brother-in-law,. The petitioner after sometime was sent by his brother in law to the police station to

enquire into the matter and about the said Scooty. When, the petitioner on 15.04.2024 went to the Tezpur Police Station, for the said purpose on behalf of his brother in law, he was arrested by police in said Tezpur P.S. Case No. 169/2024 under Section 20(b)(ii)(C) of the NDPS Act, 1985 alleging that he is involved in the said case and that Charge-Sheet No.263/2024 was filed in the said Tezpur P.S. Case on 30.06.2024 against him stating that he is in the illegal business procuring and trade of NDPS items including Ganja thereby earning money in illegal manner destroying the life of the young people in the locality.

5) Petitioner stated that he is no way involved in the case and just visited the Tezpur Police Station to enquire about the said seized Scooty of his brother in law, falsely implicating that he surrendered before police and admitted that he allegedly committed the crime.

6) Petitioner contended that prosecution witnesses so far examined, in their evidence failed to adduce any evidence against him with regard to his involvement in the alleged crime. As such, the petitioner has filed the present bail application for his regular bail in said NDPS Case No. 65/2024, arising out of Tezpur P.S. Case No. 169/2024 presently pending before the Court of learned Special Judge (NDPS), Sonitpur, Tezpur.

7) Mr. Parasar, learned Addl. PP submitted that charge under Section 20(b)(ii)(C) of the NDPS Act was framed against the petitioner on 07.08.2024 and that 20.450 Kgs of Ganja have been recovered. The independent witnesses in their evidence implicated the petitioner with regard to his involvement in the alleged crime. The trial is in progress and as such, at this stage the petitioner should not be released on bail in said NDPS Case No. 65/2024.

8) Perused the records of said NDPS Case, that was called for by order dated

07.11.2024. From the charge-sheet of the case, it is seen that there are only 6 prosecution witnesses and from the record it is seen that charge in the case was framed on 07.08.2024 and thereafter upto 12.11.2024, prosecution has already examined three of its witnesses.

9) It is also seen that the FSL report dated 16.05.2024 confirmed the seized item to be Cannabis, a Scheduled NDPS item.

10) Since the trial is progressing regularly and only few prosecution witnesses are yet to be examined and as there are materials in the case records, the Court found that considering he being in custody since 15.04.2024, the same cannot be considered for the bail of the petitioner in said NDPS Case No. 65/2024 at this stage.

11) Accordingly this bail application of the petitioner, **Ajibur @ Majibur Rahman**, son of Rustom Ali, in said **NDPS Case No. 65/2024**, arising out of Tezpur P.S. Case No. 169/2024 under Section 20(b)(ii)(C) of the NDPS Act, 1985, pending before the Court of learned Special Judge (NDPS), Sonitpur, Tezpur, **stands rejected**.

JUDGE

Comparing Assistant