

GAHC010233932024



2024:GAU-AS:11870

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

Case No. : Bail Appln./3420/2024

JAHEDUL ISLAM @ JAHED
S/O NURUL ISLAM @ FESAI HAZI, R/O VILLAGE MIRA DIGIRPAR, PS.
NILAMBAZAR, DISTRICT KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S C BISWAS, P SHARMA, MS. R DEVI, MS. U NANDA, MR. A K DAS, MR. P S BISWAS, MR A IKBAL

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

29/11/2024

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

2. The petitioner, namely, **Jahedul Islam @ Jahed**, son of Nurul Islam @ Fesai Hazi, resident of Village-Mira Digirpar, Police Station- Nilambazar, District-Karimganj, has filed this application under Section 483 of BNSS, 2023, seeking bail in **Special (NDPS) Case No. 157/2023** arising out of

Nilambazar Police Station Case No. 217/2023, corresponding to G.R. No. 2597/2023 in which he is a charge-sheeted accused under Section 22(c)/25/29 of the NDPS Act, wherein he was arrested on 13.12.2023 and is in custody since then.

3. On the night of 10.12.2023 around 8:30 PM, on receipt of specific information from source that a white colour Alto car bearing registration No. AS-10 F-4714 was carrying a huge quantity of drugs from Karimganj to Nilambazar via National Highway No. 8. The said information was entered as Nilambazar Police Station G.D. Entry No. 15 dated 10.12.2023. With due authorization, police personnel from Nilambazar Police Station with the requisite staff and materials proceeded to Bahadurpur. After reaching Bahadurpur, Barbari, a Naka was placed near Durga Drugs Distributors, Nilambazar NHA No. 8. Around 9:00 PM, said white colour Alto car from Karimganj side reach Nilambazar and the said car was asked to stop. Seeing police, the driver of the vehicle, Mitaul Ahmed managed to flee away but two of the occupants of the said vehicle, Siyab Uddin and Abdul Mannan were apprehended. On questioning them, they admitted that there were drugs inside the said vehicle which they came to deliver to Jahedul Islam @ Jahed, son of Nurul Islam @ Fesai Hazi i.e., the petitioner, and they gave two mobile numbers. In presence of independent witnesses, both the apprehended persons and the vehicle were searched following the due procedure during which one big brown packet containing 5 nos. of small brown packets were found containing 50 nos. of black colour packets, each containing 200 nos. of Yaba Tablets and those five brown packets weighing (i) 206.84 gms., (ii) 203.91 gms., (iii) 206.79 gms., (iv) 205.18 gms and (v) 203.46 gms., totaling about 1026.18 gms.

4. Accordingly, said Nilambazar P.S. Case No. 217/2023 was registered and the two persons apprehended from the car, namely, Siyab Uddin and Abdul Mannan were arrested in the said Nilambazar P.S. Case. Two days later, the petitioner Jahedul Islam @ Jahed and another namely, Wahed Hussain @ Maman were arrested in the said Nilambazar P.S. Case.

5. The petitioner submitted that charge-sheet in the case has already been filed, charge has also been framed and since alleged contraband items were not recovered from his possession that was recovered from those Siyab Uddin and Abdul Mannan, therefore, he should not be detained in custody merely on the basis of the statement of those two arrested co-accused of the case.

6. It is also submitted on behalf of the petitioner that though the statements of those two arrested accused persons, namely, Siyab Uddin and Abdul Mannan have been recorded under Section 67 of the NDPS Act, which is considered to be their voluntary statements, but in their such statements

under Section 67 of NDPS, they did not implicate the petitioner.

7. It is further submitted on behalf of the petitioner that in the charge-sheet of the case, though it is mentioned that the Called Detail Report (CDR) analysis indicates that the arrested accused persons were in continuous touch with him and that he was the receiver of the drugs carried by those two arrested accused persons, but such ground does not attract Section 37 of the NDPS Act in his case and that cannot be a ground denying bail to him. Moreover, it is urged that after the framing of charge on 30.09.2024 trial is yet to begin and that without any independent witness being proved regarding the claim of the prosecution/State that he was the receiver of the drugs seized in the case, on presumption he cannot be punished. For all these and since the prosecution failed to start the trial, it is urged before the Court that considering his detention since 13.12.2023 the petitioner should be considered for his bail in Special (NDPS) Case No. 157/2023 arising out of Nilambazar Police Station Case No. 217/2023, presently pending before the Court of learned Special Judge (NDPS)-cum-Additional Sessions Judge, Karimganj.

8. Ms. Bora, learned Additional Public Prosecutor, Assam submitted that after framing of charge in the case against the petitioner on 30.09.2024, now the case has been fixed for evidence.

9. Placing the charge-sheet, Ms. Bora, learned Additional Public Prosecutor, submitted that there is a nexus between the petitioner and other arrested accused persons of the case. Ms. Bora also submitted that the petitioner fled away from Karimganj and he could be apprehended only in the State of Meghalaya. The CDR analysis of the mobile phones of the two occupants of the car involved in the case, i.e., arrested accused persons, namely, Siyab Uddin and Abdul Mannan and that of the petitioner that was stopped during the naka checking at Bahadurpur, Barbari, Nilambazar NHA No. 8 on the night of 10.12.2023, clearly indicates the involvement of the petitioner with those two arrested accused persons of the case.

10. Stating all those, Ms. Bora, learned Additional Public Prosecutor, submitted that the charge-sheet of the case clearly indicates the involvement of the petitioner in the alleged crime.

11. Perused the records of Special (NDPS) Case No. 157/2023 along with the records of Nilambazar P.S. Case No. 217/2023 that was called for by order dated 08.11.2024.

12. Record reveals the connection of the petitioner with the arrested other accused persons of the case as to how the drugs has been collected from different States, carried through Karimganj and was to be handed over to the petitioner for the business of selling it in and around Nilambazar area.

Record also reflects that as soon as the petitioner came to know that those Siyab Uddin and Abdul Mannan have been apprehended by police he fled away from Nilambazar and two days later he was arrested from the State of Meghalaya.

13. The FSL report of the seized suspected Yaba Tablets dated 29.12.2023 gave positive test of those seized Yaba Tablets of containing Methamphetamine a scheduled NDPS contraband item.

14. Considering the recovery of huge quantity of NDPS item and involvement of the petitioner in the alleged crime and that as the charge in the case has already been framed and the matter is in the evidence stage, therefore, the Court is of the opinion that it is not a fit case to grant bail to the petitioner, named above, in said Special (NDPS) Case No. 157/2023, considering his detention in custody since 13.12.2023

15. Accordingly, this bail application of the petitioner, **Jahedul Islam @ Jahed**, son of Nurul Islam @ Fesai Hazi in said **Special (NDPS) Case No. 157/2023** arising out of **Nilambazar Police Station Case No. 217/2023**, pending before the Court of learned Special Judge (NDPS)-cum-Additional Sessions Judge, Karimganj, stands **rejected**.

JUDGE

Comparing Assistant