

GAHC010235042023



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

Case No. : Bail Appln./3929/2023

RAFIQUL ISLAM
S/O SOBIKUL ISLAM
R/O VILL- NO. 2 KELUTULI, P.S. LALUK, P.O. DHARONA,
DIST.LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MS M DAS

Advocate for the Respondent : PP, ASSAM

B E F O R E

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

09.02.2024

1. Heard Ms. M. Das, learned legal Aid Counsel appearing for the petitioner as well as Mr. M.P. Goswami, learned Additional Public Prosecutor for the State respondent.
2. This application under Section 439 Cr.P.C, is preferred by the petitioner, namely, Rafiqul Islam, who is in judicial custody since 31.12.2021 in connection with Laluk P.S.

Case No. 434/2021 registered under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. It is submitted on behalf of the petitioner that he was travelling in the tempo van and he was not in conscious possession of 20.9 kgs of ganja recovered from the tempo van bearing registration No. AS-07C/7016.

4. The FIR unfolds that during naka checking this tempo van was intercepted. 20.09 Kgs of ganja was recovered from the possession of the driver of the tempo van.

5. The learned Addl. P.P. has raised objection stating that charges have been framed against the petitioner and at this the petitioner cannot claim innocence. The learned Addl. P.P. has also submitted that four witnesses were examined and the trial has not been procrastinated by the prosecution or by the Court. The petitioner was the driver of the tempo van and conscious possession has been established against him.

6. I have scrutinized the scanned copies of the LCR.

7. The scanned copies of the charge-sheet reveals that 17 witnesses are enlisted and only four witnesses have been examined so far and it is unlikely that the trial will be concluded soon. The petitioner is behind bars since 31.12.2021.

8. I have considered the circumstances projected by the learned counsel for the petitioner.

9. Considering the peculiar facts and circumstances of this case, petition is allowed.

10. The petitioner shall be enlarged on bail of Rs. 50,000/- with a suitable surety of the like amount to the satisfaction of the learned Special Judge, Lakhimpur, North Lakhimpur

under the conditions that:-

- (i) the petitioner shall refrain from such activities with which he

is alleged,

(ii) the petitioner shall not leave the territorial jurisdiction of the Court without prior permission of the Court, till completion of trial and

(iii) The petitioner shall co-operate with the trial.

On breach of any bail conditions, bail order shall stand cancelled.

12. Accordingly, bail application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant