

GAHC010242982023



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

Case No. : Bail Appln./3940/2023

MD. IMRAN @ AKASH AND ANR
S/O MD. ELIASH
R/O TOWN- DIMAPUR
P.S. URBAN NAGALAND
DIST. DIMAPUR, NAGALAND, INDIA

2: MUKESH BARMAN
S/O LT. DINESH BARMAN
R/O TOWN - DIMAPUR
P.S. WEST POLICE

DIST. DIMAPUR
NAGALAND
INDIA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY APP, STATE OF ASSAM

Advocate for the Petitioner : MR S AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 27-02-2024

Heard Mr. S Ahmed, learned counsel for the petitioners. Also heard Mr. MP Goswami, learned Additional Public Prosecutor, Assam for the respondent State.

This is an application under Section 439 Cr.P.C. praying for bail to the petitioners, namely, Md. Iman @ Akash and 2.Mukesh Barman, who were arrested on 23.12.2021 in connection Special NDPS Case No.21(H)/2022 corresponding to Hojai Police Station Case No.633/2021 under Sections 21(c),2(A) of the NDPS Act, 1985 pending in the Court of the learned Special Judge, Sankadev Nagar, Hojai.

The learned counsel for the petitioner has submitted that both the petitioners are detained in custody for more than two years and the learned trial court has failed to complete the trial within the period of two years. It is also submitted that nothing was recovered from the possession of the petitioners. Therefore, considering the period of detention of the petitioners in custody, they may be granted bail.

The learned counsel for the petitioners in support of his submissions has brought the attention of this Court to the order dated 21.04.2023 passed by a coordinate Bench of this Court in Bail Appln. No.1357/2023.

On the other hand, Mr. MP Goswami, the learned Additional Public Prosecutor submits that out of six witnesses, three witnesses have been examined and they have implicated the accused petitioner to be involved in the alleged offence. The learned Additional Public Prosecutor submits that both the petitioners were travelling in the Maruti Baleno car bearing registration No.AS10 E 4078, when the car was intercepted by the police during naka checking and the petitioners were found inside the vehicle, in question and on being

searched, commercial quantity of heroin was recovered inside the vehicle. It is therefore submitted by the learned Additional Public Prosecutor, Assam that in view of the fact that out of the six witnesses, three witnesses have already been examined, till the trial is completed, the prayer for bail of the accused petitioners may not be considered.

I have considered the submissions of the learned counsel for the parties and I have also perused the scanned copy of the trial court records.

From the records, it appears that charge was framed on 20.07.2022. Thereafter, out of six witnesses, three witnesses have already been examined and in evidence, the witnesses have disclosed that commercial quantity of heroin was recovered from the petitioners. Considering the fact that the trial is about to complete within a short period of time, the prayer for bail of the petitioners is rejected at this stage.

However, the learned trial court i.e. learned Special Judge, Sankadev Nagar, Hojai is directed to take necessary steps to dispose of the matter as expeditiously as possible preferably by fixing day to day hearing of the matter.

The bail application, accordingly, stands disposed of.

JUDGE

Comparing Assistant