

GAHC010248262023



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

Case No. : Bail Appln./3997/2023

SINDHUNIL BISWAS AND ANR
S/O ALOK BISWAS
VILL- SHAKTIGAR, BONGA
P.S. BONGAON
DIST. NORTH 24 PARGANAS, WEST BENGAL.

2: TUHIN DEY
S/O BISWAJIT DEY
VILL- PACHIM PARA VILLAGE
P.S. BONGAIGAON
DIST. NORTH 24 PARGANAS
WEST BENGAL

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MOTIUR RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

07.02.2024

Heard Mr M Rahman, learned counsel for the petitioners, 1) Sindhunil Biswas, and

2) Tuhin Dey.

2. The petitioners have filed this application under Section 439 CrPC, with prayer for bail, as they are behind bars since 26.02.2023, in connection with NDPS Case No. 54/2023, arising out of Dillai PS Case No. 20/2023, under Sections 21(c)/22(c)/29 of the NDPS Act.

3. Heard Mr M P Goswami, learned Additional Public Prosecutor for the State of Assam.

4. It is submitted by the learned counsel for the petitioners that the petitioners have been languishing in jail for 347 days, since 26.02.2023, so their personal liberty has been curtailed.

5. The learned Additional Public Prosecutor has raised objection stating that trial has already commenced and three witnesses have already been examined.

6. The petitioners have been implicated by the prosecution witnesses. They were caught while they were in possession of morphine tablets, weighing 2013 gms.

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

8. At this juncture, it cannot be considered that trial has been procrastinated by the prosecution or by the learned trial Court. Three witnesses have already been examined. The rigours of Section 37 of the NDPS Act, acts as an embargo.

9. In view of my foregoing discussions and considering all aspects, petition with

prayer for bail is rejected, at this stage. However, the learned trial Court is directed to expedite the trial for speedy disposal of the case. If the case is further procrastinated, the petitioner is at liberty to apply for bail, which may be considered as per merits of the case.

10. Bail Application stands disposed of.

JUDGE

Comparing Assistant