

GAHC010254672023



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

**Case No. : Bail Appln./4180/2023**

TANJUL HOQUE  
S/OLT. KADOR ALI  
R/O VILL-MADHUSOULMARI  
PT.I(MUNSHIRGAON)  
P.S. GAURIPUR  
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. D K BAIDYA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**20.02.2024**

Heard Mr. D. K. Baidya, learned counsel appearing for the accused petitioner as well as Mr. B. B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Tanjul**

**Hoque**, has prayed for grant of bail in connection with **Special Case No. 78/2023 under Section 21(a)/22(c)/29 of the NDPS Act** pending in the court of learned Special Judge, Dhubri arising out of **Gauripur PS Case No.414/2022 under Section 22(C)/25 of the NDPS Act**.

Scanned copy of the case record, as called for, is placed before the Court.

Learned counsel for the petitioner has submitted that the petitioner was arrested on 22.10.2022 since then he has been languishing in jail without committing any offence. It is also submitted that the petitioner is no way connected with the allegation as contained in the FIR. It has been alleged that the psychotropic substance has been seized from his house premises which is completely false and concocted. According to learned counsel for the petitioner, during the time of raid in his house, the petitioner remained absent. The alleged psychotropic substance was seized from outside the house and the edge of the premises and the accused petitioner did not have any knowledge that such contraband was kept inside his compound.

It is also the submission of the learned counsel for the petitioner that there is absolutely no material on record that from the conscious possession of the accused, the alleged contraband was recovered from the edge of his premises when many consignments /cartons etc. were kept for transportation.

It is further submitted that two other individuals and the wife of the petitioner were also apprehended by the Investigating Agency for allegedly possessing heroin in connection with the instant case and they have been enlarged on bail by this Court.

It is alleged by the learned counsel for the petitioner that out of 11 witnesses, only 2 witnesses were examined and the last witness was examined in the month of September, 2023. For last six months, no witnesses have been turned up. It is apparent that the trial of the instant case would take a considerable time and there seems to be no mandate of law warranting prolonged detention of the accused

petitioner and as such he may be allowed to enlarge on bail.

In support of his contention the learned counsel for the petitioner has relied upon order dated 01.12.2023 passed in BA No. 3887/2023.

In response, learned Additional Public Prosecutor submits that commercial quantity of psychotropic substance were recovered from the residential campus of the petitioner. At the time of raid in the house of the petitioner, his wife was present and there was no whisper on the part of the wife of the petitioner that the said contraband was kept by any other person. It is also submitted by learned Additional Public Prosecutor that only two witnesses were examined and there is sufficient incriminating materials found against the present petitioner as such, at this stage, bail may not be granted to the accused petitioner.

I have considered the submission of the learned counsel for the parties and perused the scanned copies of the LCR.

It appears from the LCR that charge was framed on 03.05.2023. Thereafter, two witnesses were examined. It is true that PW-2 was examined on 13.09.2023. Though summons were issued to the PWs but the prosecution has failed to adduce any other witnesses. Admittedly, large quantity psychotropic substances were recovered from the residential campus of the petitioner. It is also true that the petitioner has been in custody for more than one year. But, it cannot be said to be a prolonged incarceration. It is also to be noted that the Special Judge, Dhubri is not exclusively taking up the NDPS cases.

In view of the above, bail prayer of the petitioner stands rejected. However, learned Special Judge, Dhubri is directed to take initiative to dispose of the matter as early as possible.

The petitioner is also at liberty to file fresh bail application before the trial court

at subsequent stages of trial.

The bail application is disposed of.

**JUDGE**

**Comparing Assistant**