

GAHC010260152024



2024:GAU-AS:12954

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

Case No. : Bail Appln./3738/2024

MAFIZUR RAHMAN AND ANR
S/O ABDUL HAMID ALI
R/O KATABARI,
NATUN BASTI,
P.S. GORCHUK,
DIST. KAMRUP (METRO), ASSAM
PERMANENT ADDRESS OF VILLAGE- KHONGRA P.S. TARABARI, DIST.
BARPETA, ASSAM

2: NUR HUSSAIN
S/O LATE JAKIR HUSSAIN
C/O MD. KAMRUPL ISLAM OF 11 NO. 19
MILAN NAGAR
DAKHINGAON KAHILIPARA
P.S. DISPUR
DIST. KAMRUP (METRO)
ASSAM
PERMANENT ADDRESS OF VILLAGE- BALARTARI
P.S. TARABARI
DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. N J DUTTA, M RAHMAN, MR. M M ZAMAN, MR N AHMED

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

19.12.2024

Heard Mr. N. J. Dutta, learned counsel for the petitioners. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for grant of bail to the accused/petitioners, who have been languishing in jail hazot since 03.11.2024 in connection with Dispur P. S. Case No.1198/2024, registered under Section 111(3) of BNS *read with* Section 21(b) of Narcotics Drugs and Psychotropic Substances Act, 1985.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mr. Dutta, that the petitioners are innocent. However, it is an admitted fact that they are drug addicts, and some quantity of heroin was recovered from their possession. Nevertheless, they are not drug peddlers and are not involved in any illegal drug trade. He further submitted that the petitioners have been in custody for the past 47 days. Considering the length of their detention, it is requested that they be granted bail, as the Investigating Officer (I.O.) got sufficient time for custodial interrogation. Furthermore, the petitioners are permanent residents of the addressed locality and are ready to provide local sureties if privilege of bail is extended to them.

On the other hand, Mr. Baruah, the learned Additional Public Prosecutor, has submitted that there is sufficient incriminating material available in the Case

Diary. Initially, petitioner No. 1 was apprehended, and 11.43 grams of contraband was recovered from his possession, while 107.02 grams of contraband was recovered from the possession of petitioner No. 2 during the investigation. He further submitted that the contraband was sent for examination to the Forensic Science Laboratory (FSL), but the report from the concerned authority has not yet been received, and the investigation is still ongoing.

Considering the submissions of learned counsels for both sides, I have perused the Case Diary, which reveals that there are sufficient materials collected by the I.O. against the accused/petitioners. However, without delving into the merits of the case and considering the length of detention already undergone by the accused/petitioners, i.e., 47 days, I am of the view that the I.O. had ample opportunity to interrogate the accused/petitioners in custody. Accordingly, further custodial interrogation of the accused/petitioners does not appear necessary in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the learned Special Judge, Kamrup (M), the accused/petitioners, namely, **1. Mafizur Rahman** and **2. Nur Hussain** be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts

to the Court or to any police officer; and

- (iii) that the petitioners shall not leave the jurisdiction of the learned Special Judge, Kamrup (M), without prior permission.

In terms of above, this bail application stands disposed of.

Return the Case Diary.

JUDGE

Comparing Assistant