

GAHC010262232023



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

Case No. : AB/3947/2023

MD. MONI ALI
S/O LATE MANTU ALI,
R/O HOUSE NO. 128, 3RD FLOOR, JYOTINAGAR, GUWAHATI COLLEGE
ROAD, P.S.- CHANDMARI, DIST.- KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE PUBLIC PROSECUTOR.

Advocate for the Petitioner : MR. U K BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 06.03.2024

Heard Mr. U. K. Barman, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail the accused/petitioner, who is apprehending arrest in connection with Chandmari P.S. Case No. 355/2023, under Sections 21(b)/29 of the NDPS Act.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. U. K. Barman, learned counsel for the petitioner, that the accused/petitioner is innocent and no offence has been committed by him as alleged in the F.I.R. More so, from the F.I.R. itself, it is seen that the contrabands were recovered from outside the rented premises of the present accused/petitioner. If he would have been dealing with the contraband, then definitely it would have been kept inside his house and not outside his rented room. Further he submitted that in the said premises, there are other rented rooms wherein lots of persons stays. But, as police is searching for him, he approached this Court with the present anticipatory bail application. However, he is ready and willing to extend his co-operation with the I.O. in the investigation of this case if he is granted with the privilege of pre-arrest bail.

In this context, Mr. B. B. Gogoi, learned Additional Public Prosecutor, has submitted that he has received the FSL report and as per the same, it gave positive test for heroine and the I.O. also collected sufficient incriminating materials against the present accused/petitioner and hence, he raised objection and submitted that it is not a fit case where the privilege of pre-arrest bail can be extended to the accused/petitioner.

After hearing the submissions of learned counsels for both sides, I have perused the Case Diary and it reveals that the I.O. has already received the FSL report which gave the positive test for heroine. Further it is seen that not only some contraband was recovered from the rented premises of the accused/petitioner, but apart from that, several empty bottles and empty packets were recovered by the I.O. after the house search of the accused/petitioner.

In view of above and also considering the materials available in the Case Diary, I find that custodial interrogation of the present accused/petitioner may be necessary in this case to unearth some more facts of the case and also for the interest of just and proper investigation and accordingly, I am of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the accused/petitioner at this stage and accordingly, the same stands rejected.

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

Case Diary be returned.

JUDGE

Comparing Assistant