

GAHC010265352023



THE GAUHATI HIGH COURT AT GUWAHATI
(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Bail Application No. 4286/2023

Rounak Chirania,
Aged about 33 years,
S/o Bijay Chirania of Ester Enclave,
Sati Jaymoti Road, Opposite Ram Janki
Mandir, Chabipool, Rehabari, in the District
Of Kamrup(M), Assam. PIN-781008

.....Accused/petitioner

-Versus-

The State of Assam,
Represented by the Public Prosecutor, Assam.

.....Respondent.

Advocates for the appellant: Mr A M Bora, Sr. Adv.,
Advocate for the respondents: Mr S C Keyal, SC, NCB.

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Date of Order : 22.01.2024

ORDER

Heard Mr A M Bora, learned Senior Counsel for the petitioner, Rounak Chirania, and the learned Standing Counsel for NCB, Mr S C Keyal.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail, as he is behind bars since 08.08.2023, in connection with Customs Case No. 02/CL/NARC/AS/Gau/2023-24, registered under Section 22(C) of the NDPS Act.

3. The allegation against the petitioner is that on 07.08.2023, acting on a specific information, the Officer of Anti-Smuggling Unit, Customs Division, Guwahati, effected seizure of 55,789 suspected Spasmo Proxyvon capsules recovered from the possession of Rounak Chirania. He was arrested and forwarded to custody.

4. The petitioner was apprehended along with Santanu Lahkar, near the vicinity of the Health City Hospital and both the accused were travelling in a vehicle bearing Registration No. AS-01-MB-8789. The capsules were kept inside a brown coloured box on the rear seat of the vehicle.

5. It is submitted on behalf of the petitioners that the accused Santanu

Lahkar is associated with pharmaceutical business and is the proprietor of Prativa Medical Store at Nalbari. The seized capsules are pharmaceutical products being SPM-PRX+ and the same were purchased from M H Pharmaceuticals by B S Pharma by following proper procedure and stored in the godown for sale. The accused Santanu Lahkar has been made a scape goat of the entire circumstances.

6. It is also submitted on behalf of the present petitioner that he is associated with pharmaceutical business, in which his father is a distributor and wholesale licence holder in the name of M/s B S Pharma, being Licence No. KMP/16639, which is marked as Annexure-1 of the petition.

7. The learned Senior Counsel for the petitioner has drawn the attention of this Court to Annexures-III, IV and V of the petition, which clearly reveals that B S Pharma has purchased 18 x 8 capsules from M H Pharmaceuticals for Rs. 49,123/-, on 05.06.2023, again on 06.06.2023, 18 x 8 capsules were purchased from M H Pharmaceuticals for the same amount of Rs. 49,123/- and, on 07.06.2023, 18 x 8 capsules were purchased by B S Pharma from M H Pharmaceuticals for Rs. 49,313/-. The Annexure-IV is the GSTIN/UIN of Santanu Lahkar in the trade name of Prativa Medical Store, relating to

proprietorship business and retail business. The Annexure-V is the statement of B S Pharma of receiving Rs. 1 lac from Santanu Lahkar, i.e., from Prativa Medical Store.

8. It is submitted that the capsules have been legally transferred and the accused/petitioner was not carrying smuggled drugs.

9. The learned Standing Counsel for NCB has raised objection stating that the Annexures-III and V reveals transaction relating to 432 capsules, whereas unaccounted 55,789 capsules were recovered from the possession of the accused Rounak Chirania and Santanu Lahkar. Before they were apprehended, Santanu Lahkar tried to escape.

10. I have considered the submissions at the Bar with circumspection.

11. I have also perused the Case Diary.

12. The capsules which were seized contains Tramadol, which is a psychotropic substance. Documents relating to purchase of 432 capsules have been submitted along with the petition and it has been satisfactorily explained that 432 capsules have been purchased by B S Pharma from M H Pharmaceuticals. There is not even an iota of doubt that Santanu Lahkar is

the owner of Prativa Medical Store, but at the same time, the purchase of the huge number of capsules/tablets is still in the dark. Investigation is still under progress. The petitioner has been booked under Section 22(C) of the NDPS Act. The rigours of Section 37 of the NDPS Act, acts as an embargo at this juncture.

13. Petition with prayer for bail stands rejected, at this juncture.

14. Send back the Case Diary.

JUDGE

Comparing Assistant