

GAHC010270852023



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

Case No. : Bail Appln./4367/2023

MD. IJAJUL HOQUE @ KALA SEMA
S/O- MD. HOBIBUR RAHMAN @ HOBI, VILL- DHUBAGURI SUMA GAON,
P.S. DHING, DIST.- NAGAON

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MOTIUR RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 10-01-2024

- 1.** Heard Mr. A.K. Talukdar, learned counsel for the petitioner.
- 2.** The petitioner, namely, Md. Ijajul Hoque @ Kala Sema has filed this application under Section 439 Cr.PC with prayer for bail as he is behind bars since 12.09.2023 in connection with NDPS Case No. 80/2023 arising out of Khatkhathi P.S. Case No. 95/2023 registered u/s 21(b)/22(b)/25 of the NDPS Act.
- 3.** Heard Mr. M.P. Goswami, learned Addl. PP, Assam.
- 4.** I have considered the submissions at the Bar.

5. It is submitted on behalf of the petitioner that he is blessed with a child and his wife is alone. The petitioner has to take care of his wife and child. He was behind bars when his child was born.

6. The learned Addl. P.P. has raised serious objection stating that the petitioner was caught with two different types of contraband consisting of heroin as well as Tramadol tablets.

7. I have considered the submissions at the Bar with circumspection. The petitioner is behind bars for 121 days. The petitioner is a local resident and he has pledged to co-operate with the trial. The petitioner has pledged to abide by any bail condition, if imposed upon him. I have considered the submission that the embargo of Section 37 of the NDPS Act is not a fetter to this case as the petitioner was apprehended with intermediate quantity of contraband.

8. In view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the Special Sessions Judge (FTC) Diphu, Karbi Anglong under the conditions that:-

- i. The petitioner shall not jump the bail;
- ii. the petitioner shall co-operate with the trial and appear regularly;
- iii. the petitioner shall refrain from such activities with which he is alleged; and
- iii. the petitioner shall not leave the jurisdiction of the trial Court without prior permission till completion of trial.

On breach of any of the bail conditions, bail order shall stand cancelled.

JUDGE

Comparing Assistant