

GAHC010272512023



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

Case No. : Bail Appln./4396/2023

PAPU DAS @ SANJOY DAS AND ANR.
S/O PRASANJIT DAS R/O VILL BALIRAM GAON P.O. AND P.S.
JAMUNAMUKH DIST. HOJAI ASSAM PIN 782428

2: BUDHIMAN TAMANG
S/O LT. BALBAHADUR TAMANG R/O VILL. AMTRENG P.O. AND P.S.
BAITHALANGSO DIST. WEST KARBI ANGLONG ASSAM PIN 78245

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. D P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09-01-2024

Heard Mr. D.P.Borah, learned counsel for the accused and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

This application, under Section 439 Cr.P.C. is preferred by two accused, namely,

1. Sri Papu Das @ Sanjoy Das and 2. Sri Budhiman Tamang, who are languishing in jail hajot since 13.11.2023, in connection with Kampur P.S. Case No. 170/2023, under Sections 120 B/328 IPC read with Section 21(b)/29 of NDPS Act for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by one S.I, Ranjit Gogoi of Khatowal Police Station on 13.11.2023.

The essence of allegation, made in the FIR, dated 13.11.2023, is that acting on a tip off, the informant and other police staff apprehended one Mahindra Bolero vehicle bearing registration No. AS-02-AN-0787, being parked in front of Ganesh Dhaba, and apprehended two persons namely, Budhiman Tamang and Sri Papu Das @ Sanjoy Das and also recovered 47 grams of suspected heroin in soap boxes.

The learned counsel for the accused submits that the accused were arrested on 13.11.2023, and since then they are behind the bar for last 58 days and that the quantum of contraband substance recovered from their possession is of intermediate quantity and as such, the embargo u/s 37 of NDPS Act will not come into play and that the accused are ready to cooperate with the investigating agency and therefore, Mr. Borah contended to allow the petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. has produced the case diary and submits that the case is pending for collection of FSL report and for arrest of some other co-accused.

Having heard the submission of learned Advocates for both the parties I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P.

Indisputably, the contraband substances allegedly recovered from the possession of the accused person, are of intermediate quantity i.e. 247 grams and that the accused are languishing in jail hajot since 13.11.2023, for last 58 days. Further, it appears that the material part of the investigation is almost over and the case is pending for collection of FSL report and for arrest of some co-accused.

In view of the above, this Court is of the considered view that this is a fit case

where the privilege of bail can be granted to the accused persons and accordingly, it is provided that on furnishing a bond of Rs.50,000/- each with one surety of like amount to the satisfaction of the learned Special Judge(NDPS) Nagaon, the accused persons be enlarged on bail.

Case diary be returned.

JUDGE

Comparing Assistant