

GAHC010274612023



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

**Case No. : Bail Appln./4424/2023**

ISSAC LOLI @ LOLI ISAAC  
S/O LT. LOLI PERMANENT R/O VILL. MAKHEL (4KM AWAY FROM TADUBI  
P.S) P.S. TADUBI DIST. SENAPATI MANIPUR PIN 795104 PRESENTLY  
RESIDING AT 4 MILE NEAR LOTHACHURCH P.S DIPHU PAR DIST  
CHUMKEDIMA NAGALAND PIN 97115

VERSUS

THE STATE OF ASSAM  
REP BY THE PP ASSAM

**Advocate for the Petitioner : MR. N K MURRY**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

**ORDER**

**Date : 11-01-2024**

- 1.** Heard Mr. N.K. Murry, learned counsel for the petitioner.
- 2.** The petitioner, namely, Issac Loli @ Loli Isaac has filed this application under Section 439 Cr.PC with prayer for bail as he is behind bars since 08.01.2023 in

connection with NDPS Case No. 43/2023 arising out of Bokajan P.S. Case No. 191/2023 registered u/s 21(C)/29 of the NDPS Act.

**3.** Heard Mr. M.P. Goswami, learned Addl. PP, Assam.

**4.** The learned counsel for the petitioner has submitted that the petitioner has been languishing in the jail for 368 days and only one witness is to be examined. The petitioner deserves bail. The learned counsel for the petitioner has also relied on the decision of this Court dated 08.08.2023 in connection with Bail Application No. 2140/2023 and order dated 26.06.2023 in Bail Application No. 1256/2023. The petitioner has also relied on the decision of the High Court of judicature of Punjab and Harayana at Chandigarh in ***Khushi Ram @ Happy v. State of Punjab*** in CRM-M-12940 of 2021 dated 03.10.2023 and on the decision of High Court of judicature at Bombay in ***Shivraj Gorakh Satpute v. State of Maharashtra*** in Bail Application No. 2865 of 2022. It is submitted that similarly circumstanced accused have been granted bail in connection with the above mentioned cases. The petitioner has prayed for bail on the ground of parity.

**5.** In Bail Application No.2140 of 2023, this Court was pleased to grant bail to the petitioners as the petitioners were behind bars for 520 days and only 5 witnesses out of 8 witnesses have been examined. Vide order dated 26.06.2023 in Bail Application No. 1256/2023 this court granted bail to the petitioner as the accused was behind bars for 1 year 2 months and only 2 witnesses have been examined. In Bail Application No. 2865 of 2022 vide order dated 15.09.2023 the Bombay High Court granted bail to the accused as he was behind bars since 03.07.2022 and vide order dated 03.10.2023 in CRM-M-12940 of 2021 the High Court of judicature of Punjab and Haryana at Chandigarh granted bail to the accused as he was behind bars since 05.10.2020.

**6.** It is apparent that the present petitioner is not similarly situated to the accused mentioned herein above. It is also submitted that there is every possibility of acquittal

as Section 52A of the NDPS Act has not been complied with.

**7.** The learned Addl. P.P. has raised serious objection stating that this case is at the fag end of the trial. Only one witness is to be examined. There is every possibility that the petitioner may jump bail if he is enlarged on bail. This is not a case where personal liberty has been curtailed due to procrastination by the prosecution or by the trial Court.

**8.** I have considered the submissions at the Bar with circumspection. The petitioner was arrested on 10.08.2023 and within 1 year trial has been almost to be concluded. The embargo u/s 37 of the NDPS restricts the bail prayer of the petitioner. It is true that trial has not been procrastinated by the prosecution or by the trial Court. It cannot be said that personal liberty has been curtailed at his juncture due to procrastination of trial. The import of the section under which the petitioner is booked has also to be taken into consideration.

**9.** In view of my foregoing discussions, petition is rejected at this stage.

**10.** No order on the merits of the case is passed at this juncture as trial is about to be concluded and this order has not touched the merits of the case.

**JUDGE**

**Comparing Assistant**