

GAHC010274632023



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

Case No. : Bail Appln./4425/2023

LOMBIT MORAN
S/O LT. DONDESWAR MORAN PERMANENT R/O OF VILL CHOTO HAPJAN
TEA ESTTATE P.O. AND P.S. MAKUM DIST. TINSUKIA ASSAM PIN 786170
PRESENTLY RESIDING AT 4 MILE NEAR LOTHACHURCH P.S DIPHU PAR
DIST CHUMUKEDIMA NAGALAND PIN 79115

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N K MURRY

Advocate for the Respondent : MR. M P GOSWAMI(ADDL.PP, ASSAM)

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

20.02.2024

Heard Mr N K Murry, learned counsel for the petitioner, Shri Lombit Moran.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail, as he is behind bars since 08.01.2023, in connection with Special NDPS Case No. 43/2023, arising out of Bokajan PS Case No. 03/2023, registered under Sections 21(C)/29 of the NDPS Act (GR Case No. 06/2023).

3. Heard Mr M P Goswami, learned Additional Public Prosecutor for the State of Assam.

4. It is submitted on behalf of the petitioner that there is no *prima facie* case against the petitioner. The witnesses have already been examined. The IO is yet to be examined. As the petitioner is behind bars for 395 days, his personal liberty has been curtailed. Although it is alleged that 607.54 grams of heroin was recovered from his possession, the procedural lapse entitles the petitioner to bail. The learned counsel for the petitioner has prayed for admitting the petitioner to bail.

5. The learned Additional Public Prosecutor has raised objection stating that the case is at the fag end of trial. At this juncture, trial may be adversely affected if the petitioner is enlarged on bail. 7 witnesses have been examined in connection with this case. Only the IO is to be examined. The amount of heroin recovered weighs 607.54 grams, which is a commercial quantity.

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

7. Indeed, the case is at the fag end of trial.

8. It appears that the trial may be adversely affected if the petitioner is admitted to bail. The personal liberty of the petitioner cannot be said to be curtailed, as trial has been procrastinated. This is a case where the trial is progressing at a regular pace. The rigour of Section 37 of the NDPS Act, acts as an embargo. There is no *prima facie* case to admit the petitioner to bail.

9. Petition is rejected at this stage.
10. Meanwhile, learned trial Court is directed to expedite the trial.

JUDGE

Comparing Assistant