

GAHC010275522023



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

Case No. : Bail Appln./4472/2023

RANTU DAS
S/O PAREN DAS
VILL- BAGTA
P.S. HAJO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 01.04.2024

1.Heard Mr. A. Ahmed, learned counsel for the petitioner.
Also heard Ms. A. Begum, learned Additional Public Prosecutor for
the State.

2.This application under Section 439 of the Code of Criminal

Procedure, 1973 has been filed by the petitioner Rantu Das, who has been detained behind the bars since 15.01.2023, in connection with the Special (NDPS) Case No. 19/2023 pending before the Court of learned Special Judge, Kamrup, Amingaon and corresponding to Hajo P.S. Case No. 28/2023, registered under Section 20(b)(ii)(C)/20(b)(ii)(B)/29 of Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The accusation against the present petitioner is that on 14.01.2023 one Bishnu Jyoti Borah, SI of Police of Hajo Police Station have lodged an FIR before the Officer In-charge of Hajo Police Station inter alia, alleging that on the basis of the reliable information received, huge quantity of Ganja would be transported from Japia Side to Baramboi, Bagta side. A Naka checking was conducted by the Hajo Police Station and during the Naka checking at about 2.40 AM one TVS NTORQ scooter bearing Regd. No. AS-25S-7874 was intercepted with the help of PS staff at Bagta (Bhoillamari) PWD road and two numbers of jute gunny bags containing suspected Ganja were seized from the possession of the present petitioner Rantu Das. On weighing of the suspected Ganja, the total weight of the Ganja along with the polythene bags, it was found to be 20kgs. Thereafter, during the search operation in the house of one, Gautam Kumar, 4.2 kgs of Ganja with polythene bag was recovered. On receipt of the said FIR, Hajo P.S. Case No. 28/2023 was registered.

4. After completion of the investigation, Charge-Sheet was laid against the present petitioner along with 2(two) numbers of

accused persons, namely, 1) Gautam Kumar and 2) Ridip Kumar under Section 20(b)(ii)(C) as well as 20(b)(ii)(B)/29 of the NDPS Act.

5. During the course of investigation, the Court of learned Special Judge, Amingaon granted bail to the other two co-accused persons on the ground that no Ganja was seized from their possession.

6. The learned counsel for the petitioner has submitted that from the seizer list, it becomes clear that the quantity of Ganja seized from the possession of the present petitioner is 20 kg, which is not greater than the quantity as defined under Section 2(vii a) of The Narcotic Drugs and Psychotropic Substances Act, 1985 and as per the notification published in the official gazette by the Central Government. Therefore, it is submitted that for becoming the commercial quantity of Ganja, the weight seized, has to be more than 20 kgs.

7. Though, the learned Additional Public Prosecutor objected to the grant of bail to the present petitioner. However, the submission of learned counsel for the petitioner seems to be persuasive as apparently the quantity of Ganja seized in this case is found to be of 20 kgs.

8. Therefore, prima facie it appears that the contraband seized from the present petitioner in this case is not of commercial quantity but of intermediate quantity. As the petitioner has already been detained behind the bar since 15.01.2023, this Court is of

the considered opinion that he is entitled to be released on bail.

9. Accordingly, the petitioner namely, Rantu Das is hereby allowed to go on bail of Rs. 50,000/- (Rupees fifty thousand) only with one surety of like amount subject to the satisfaction of the trial court in connection with the Special (NDPS) Case No. 19/2023 corresponding to Hajo P.S. Case No. 28/2023, registered under Section 20(b)(ii)(C)/20(b)(ii)(B)/29 of Narcotic Drugs and Psychotropic Substances Act, 1985, with the following conditions:

(i) That he shall regularly appear before the trial Court as and when so required by the trial Court and shall co-operate with the trail pending against him;

(ii) that he shall not directly or indirectly make any inducement, threat or promise to any listed witnesses or any other persons, who may be acquainted with the facts of this case; and

(iii) that he shall not indulge in any offence similar to that for which he has been charged in the Special (NDPS) Case No. 19/2023.

10. With above observations, this bail application is disposed of.

JUDGE

Comparing Assistant