

GAHC010275872023



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

Case No. : Bail Appln./4433/2023

NAVAL KISHORE @ NAVIL KISHOR
S/O SRI NET RAM
R/O VILL- AGANPUR
P.S. VAISHALI
DIST. BAREILLY, UTTAR PRADESH
PIN CODE- 243503

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

10.01.2024

Heard Mr S Rahman, learned counsel for the petitioner, Sri Naval Kishore @ Navil Kishor.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for

bail, as he is behind bars since 27.06.2022, in connection with NDPS Case No. 248/2022, pending in the Court of learned Additional Sessions Judge No. 2, Kamrup (Metro), arising out of GRPS Case No. 82/2022, under Section 21(c) of the NDPS Act.

3. Heard Ms N Das, learned Additional Public Prosecutor for the State of Assam.

4. The FIR unfolds that on 27.06.2022, at about 07:25 pm, at Platform No. 3 of the Guwahati Railway Station, during routine checking, a suspicious looking person with suspicious behaviour was apprehended and after checking, a brown coloured packet was found wrapped around his lower abdomen. 320 grams of morphine was recovered from his possession.

5. It is submitted on behalf of the petitioner that the petitioner has been languishing in jail for more than 1 ½ years and trial has not yet commenced. The petitioner was forwarded on 28.06.2022 and charge was framed against him on 18.11.2022. Not a single witness has been examined. The petitioner's right to personal liberty has been curtailed due to the procrastination of the trial.

6. It is further submitted that there is every possibility that the petitioner may be acquitted due to the laches and discrepancies in the investigation as well as in the trial.

7. The learned Additional Public Prosecutor has raised serious objection, stating that the petitioner is booked under a serious offence. The rigours of Section 37 of the NDPS Act acts as an embargo.

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

9. It is no more *res integra* that procrastination of trial deters the personal liberty of an incarcerated person.

10. I have scrutinized the scanned copies of the LCR, which reveals that not a single witness has been examined. This militates against the petitioner's right to personal liberty, guaranteed under Article 21 of the Constitution of India.

11. Considering the peculiar nature of this case, I deem it proper to grant bail to the petitioner. The petitioner has pledged to abide by any of the conditions purported to be imposed upon him. The petitioner is enlarged on bail of Rs. 1,00,000/-, with two local sureties of the like amount to the satisfaction of the learned trial Court, under the conditions that-

- i) the petitioner shall not jump bail,
- ii) the petitioner shall refrain from such activities with which he is alleged,
- iii) the petitioner shall appear regularly before the learned trial Court.

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

12. Bail Application stands disposed of.

13. Send back the Case Diary.

JUDGE

Comparing Assistant