

GAHC010282342023



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

Case No. : Bail Appln./4541/2023

BASERUL ISLAM @ BASIRUL ISLAM
S/O LATE TOSIR ALI
R/O VILL- SILAPANI
P.S.LAKHIPUR
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

23.02.2024

Heard Mr. MI Hussain, learned counsel for the petitioner. Also heard Mr. BB Gogoi, learned Additional Public Prosecutor, Assam for the respondent State.

This is an application under Section 439 Cr.P.C. praying for bail to the petitioner, namely, Baserul Islam @ Basirul Islam, who was arrested on 30.08.2023 in connection with Golakganj Police Station Case No.348/2023 under Sections 21(c)/29 of the NDPS Act.

It is further submitted by the learned counsel for the petitioner that the petitioner has been in custody for last 178 days and two days are left for completing the statutory period of 180 days in detention. It is further submitted that the drugs i.e. the bottles of Phensedyl cough syrup were found not from the possession of the present petitioner, but from the possession of the owner of the vehicle, in question. The seized drugs were seized from one Bijon Karmakar, who was the owner of the vehicle and the petitioner is not involved in the offence alleged and only because the petitioner was loitering nearby the spot at the relevant point of time, he was apprehended by the police. It is also submitted that charge-sheet has not been filed in the case and considering the length of detention of the petitioner in custody, he may be enlarged on bail.

On the other hand, the learned Additional Public Prosecutor, Assam submits that the case diary is received, however, the FSL report is not available in the case diary and the last entry that was made in the case diary appears to be in the month of August, 2023.

I have considered the submissions of the learned counsel for the parties and also perused the case diary. On perusal of the same, it appears that since the month of August 2023, the case diary has not been updated. FSL report is also not available in the case diary.

Considering the length of detention of the petitioner, this Court is inclined to grant bail to the petitioner.

Accordingly, the petitioner above-named, shall be released on bail in connection with the aforementioned police station case on furnishing a bail bond of Rs. 1,00,000/-

(Rupees One Lac) with two sureties of the like amount to the satisfaction of the learned Special Judge Dhubri, subject to the following conditions that the petitioner:

- (a) shall not leave the territorial jurisdiction of the learned Special Judge Dhubri, without obtaining prior written permission,
- (b) shall not hamper with the investigation, or tamper with the evidence of the case; and
- (c) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

The bail application, accordingly, stands disposed of.

JUDGE

Comparing Assistant