

GAHC010283832023



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

Case No. : Bail Appln./4564/2023

DULAL UDDIN
S/O ABDUL BARIK
VILL- BALIKATIA, P.S. JURIA
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

08.02.2024

Heard Ms A Begum, learned counsel for the petitioner, Dulal Uddin.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail as he is behind bars for 420 days since 13.12.2023, in connection with NDPS Case No. 29/2023, GR Case No. 306/2022, arising out of Dillai PS Case No. 41/2022, under

Sections 21(c)/29 of the NDPS Act.

3. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.
4. It is submitted on behalf of the petitioner that the petitioner has to be outside the jail to engage a lawyer to defend his case and face the trial. He has been behind bars for 420 days. Charges were framed as recently as on 12.07.2023. His right to personal liberty has been curtailed as he is facing trial from behind bars and he could not prepare his defence properly.
5. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.
6. The learned Additional Public Prosecutor has raised objection stating that charges were framed on 12.07.2023. 1 out of 9 witnesses has already been examined. The petitioner was found in conscious possession of 500 grams of heroin.
7. The rigours of Section 37 of the NDPS Act comes into play.
8. I have considered the submissions at the Bar with circumspection.
9. It is true that trial has been delayed to some extent, but at the same time, it cannot be considered that the trial has been delayed by the prosecution or by the learned trial Court to the extent that the personal liberty of the petitioner has been curtailed. The petitioner is booked under a serious offence and he is facing trial. One witness has already been examined. Charges were framed on 12.07.2023. The rigours of Section 37 of the NDPS Act is an embargo to this bail petition, at this juncture. The petitioner

cannot be granted bail, at this stage.

10. Petition with prayer for bail is rejected at this stage.

11. The petitioner is at liberty to file a subsequent bail application if trial is procrastinated indefinitely. The learned trial Court is directed to expedite the trial for speedy disposal of the case.

12. Bail Application stands disposed of.

JUDGE

Comparing Assistant