

GAHC010284652023



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

Case No. : Bail Appln./4583/2023

ALI HUSSAIN
S/O KASHIM ALI
VILL- RAJUPATH, BARPETA ROAD,
WORD NO. 9, P.S. BARPETA ROAD,
DIST.BARPETA, 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 MR. JUSTICE ROBIN PHUKAN
ORDER

10.01.2024

Heard Mr. M.I. Hussain, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Ali Hussain**, who has been languishing in jail hazot since 17.11.2023, in connection with the **Bongaigaon P.S. Case No. 492/2023**, under Sections 21[b]/29 of the NDPS Act, for

granting bail.

3. The said case has been registered on the basis of one FIR lodged by SI Sukesh Ghosh, on 17.11.2023. The essence of allegation made in the FIR is that acting on tip of he has apprehended one person at Motor Gadda and recovered suspected heroin, weighing 71.31 grms, along with container.

4. Mr. Hussain, learned counsel for the accused submits that the accused person was arrested on 17.11.2023, and since then they have been languishing in jail hazot for last 55 days and that the quantity of contraband substance recovered from his is of intermediate quantity and therefore, it is contended to allow this petition.

5. Mr. Barua, learned Additional Public Prosecutor submits that he has not received the case diary, but he has the instruction that the I.O. has already completed investigation and laid Charge-Sheet against the applicant, under Sections 21[b]/29 of the NDPS Act, vide Charge-Sheet No. 01/2024, dated 07.01.2024.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record.

7. It appears that the quantity of contraband substance recovered from his is of intermediate quantity and therefore, the embargo of Section 37 of the NDPS Act, has not arisen.

8. Balancing the period of detention with the allegation made in the FIR and also considering the submissions of learned counsel for both the parties, it is provided that on furnishing a bond of Rs. 50,000/- each only, with one surety of like amount to the satisfaction of the learned **Special Judge,**

NDPS Act, Bongaigaon, the accused be enlarged on bail.

9. In terms of above, this bail application stands disposed of.

Comparing Assistant

JUDGE