

GAHC010286212023



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

Case No. : Bail Appln./4589/2023

FOZLEE BIBI AND ANR
W/O HASHEN ALI
R/O VILL- HAPACHARA
P.S. BONGAIGAON,
DIST. BONGAIGAON, ASSAM

2: FOJIRU HOQUE
S/O HASHEN ALI
R/O VILL- HAPACHARA
P.S. BONGAIGAON
DIST. BONGAIGAON
ASSA

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
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.01.2024

Heard Mr. M.I. Hussain, learned counsel for the accused and also heard Mr. R.J.

Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by two accused, namely, Fozlee Bibi and Fojirul Hoque, who have been languishing in jail since 27.11.2023, in connection with Bongaigaon P.S. Case No.504/2023, under Section 21(b)/29 of the NDPS Act, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by S.I. Sukesh Ghosh, I/C North Bongaigaon P.P. on 28.11.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off on 28.11.2023, at about 9:05 p.m., they have conducted search in the house of Hasen Ali in presence of witnesses and recovered 22.81 gm of suspected heroin, along with the container.

4. Mr. Hussain, learned counsel for the accused, submits that both the accused were arrested on 27.11.2023, and since then they are behind the bar for last 57 days and they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary, but as per his instruction, the I.O. has completed investigation and submitted charge-sheet, being Charge-Sheet No.3/2024, dated 17.01.2024, under Section 21(b)/29 of the NDPS Act.

6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record.

7. It appears that the quantity of contraband substance allegedly recovered from the possession of the accused persons are of intermediate quantity. The accused persons are behind the bar for last 57 days and in the meantime, the investigation has already been completed and charge-sheet has been laid before the learned Court below. Having regards to above, further custodial detention of accused persons seems to be not warranted here in this case and accordingly, this Court is inclined to allow this petition.

8. It is provided that on furnishing a bond of Rs.50,000/- each, with one surety of the

like amount to the satisfaction of the learned Special Judge (NDPS), Bongaigaon, both the accused persons be enlarged on bail.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant