

GAHC010291962023



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

Case No. : Bail Appln./4648/2023

JONASING KRO
S/O- BURASING KRO, R/O- VILL.- MATIKHULA, NINGKRENG TISSO
DENGAON, P.S. KARBI ANGLONG, P.O. DUARBAMUNI, DIST. KARBI
ANGLONG, PIN- 782441, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. SAILENDRA DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 22-05-2024

Heard Mr. B. Dutta, learned Senior Counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam for the respondent State.

2. The petitioner Sri Jonasing Kro has filed this application under Section 439

of the Code of Criminal Procedure, 1973 (CrPC for short) with prayer for bail as he is behind bars since 11.04.2023 in connection with NDPS Case No. 47/2023 arising out of Hatigaon Police Station Case No. 17/2023 under Sections 22(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (the NDPS Act for short)

3. The learned counsel for the petitioner has submitted that the petitioner is only 22 (Twenty Two) years old. He has lost one year of his 3rd semester. It is submitted that trial has been protracted and the petitioner's right to personal liberty has been curtailed due to the procrastination of the trial. Charge sheet was already laid on 30.06.2023 and only 1 (One) out of 11 (Eleven) witnesses has been examined so far. The co-accused has already admitted when his statement was recorded by the Investigating Officer that the petitioner was not wary that he was carrying contraband. The car in which the petitioner and co-accused were travelling and which was driven by the co-accused, belongs to the father of the co-accused. The petitioner took a lift in the car.

4. The learned Additional Public Prosecutor has raised serious objection stating that this case cannot be considered to be a case where trial has been procrastinated or protracted. It is a serious offence. The forwarding report clearly reveals that the petitioner was forwarded as sufficient evidence was found against them i.e. the petitioner and his co-accused. Charge sheet has been laid only because prima facie materials have been found against the petitioner. The statement of the co-accused under Section 161 of the CrPC cannot exonerate the petitioner.

5. I have scrutinized the scanned copies of the Trial Court Records.

6. It is true that the petitioner is behind bars since 11.04.2023. Trial as thus

commenced as charges have been framed against the petitioner on 30.06.2023. The double pronged condition of Section 37 of the NDPS Act acts as an embargo against the bail petition. At this juncture, it cannot be held that the petitioner's personal liberty has been curtailed.

7. I have also considered the submission of the learned Senior counsel for the petitioner that most of the witnesses cited by the Investigating Officer were labourers who were present at the place of occurrence i.e. where the petitioner was apprehended. The learned Senior counsel for the petitioner has also submitted that the learned Trial Court would be unable to procure the presence of all the witnesses as all the labourers have already left the place and they may not be available at their given addresses.

8. Considering all aspects and in view of my foregoing discussions, petition with prayer for bail is rejected at this stage. However, the petitioner may later apply for bail if trial is further procrastinated. The Trial Court is directed to expedite the trial for speedy disposal of this case.

9. In the above terms and observations this Bail Application stands disposed of.

10. Send back the Case Diary.

JUDGE

Comparing Assistant