

GAHC010293702023



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

Case No. : AB/4370/2023

SAJIDUL HAQUE @ SAJID UDDIN
S/O LATE KHAIR UDDIN
VILL- DAKSHIN KEUTIGRAM
P.O. ASALKANDI
DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
RE. BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

22.01.2024

Heard Ms. R. Choudhury, learned counsel for the applicant and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 438 of the Code of Criminal Procedure, is preferred by applicant namely, **Sajidul Haque @ Sajid Uddin**, who has been apprehending arrest in connection with **Special NDPS Case No. 40/2022**, arising out of Patharkandi P.S. Case No. 69/2022, under Sections

21[C]/25/29 of the NDPS Act, for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by SI Rajpratap Singha, on 06.03.2022. The essence of allegations made in the FIR is that on 06.03.2022, acting on a tip off the informant has intercepted one Alto vehicle, bearing registration No. TR-05-D-0625 and after checking the vehicle they have recovered 27 numbers of soap boxes containing suspected narcotic drugs, concealed inside front side car bumper and inside the front mudguards of both side.

4. Ms. Choudhury, learned counsel for the applicant submits that the case has already been charge sheeted by the IO, under Sections 21[C]/25/29 of the NDPS Act, showing the present applicant along with two others as absconder and thereafter, the learned court below has issued Non-Bailable Warrant of Arrest [NBWA] against the present applicant and against the said order the applicant had preferred a criminal petition before this Court, which was disposed by this Court, vide order dated 13.12.2023, and the applicant was directed to appear before the learned court below within 10 [ten] days, seeking regular bail and thereafter, the applicant had filed a petition for extension of time to appear before the learned court below, but, the learned court below did not accept the same and again issued NBWA against the applicant. Ms. Choudhury further submits that the applicant will appear before the learned court below and will face the trial and that till then he may be granted some interim protection.

5. Mr. Barua, learned Additional Public Prosecutor submits that the IO has completed the investigation and laid charge sheet before the learned court below, under Sections 21[C]/25/29 of the NDPS Act, showing the present applicant along with two others as absconder. Mr. Barua further submits that the

applicant may be directed to appear before the learned court below and to face the trial.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the scanned copy of the record received from the learned court below.

7. It is not in dispute that the case has already been charge sheeted by the IO, under Sections 21[C]/25/29 of the NDPS Act, showing the present applicant along with two others as absconder and since the present applicant is willing to participate in the trial and assured to appear before the learned court below, this Court is inclined to extend interim protection to the applicant.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with **Special NDPS Case No. 40/2022**, arising out of Patharkandi P.S. Case No. 69/2022, under Sections 21[C]/25/29 of the NDPS Act, he shall be enlarged on pre-arrest bail, on his executing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall appear before the learned court below on or before 08.02.2024, and shall apply for regular bail and in event of filing such an application, the learned Court below shall consider the same in accordance with law;

(ii) that the applicant 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; and

(iii) that the applicant shall not leave the jurisdiction of the learned **Sessions Judge, Karimganj**, without prior permission.

10. In terms of above, this anticipatory application stands disposed of.

Comparing Assistant

JUDGE