

GAHC010294672023



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

Case No. : Bail Appln./219/2024

NUR MOHAMMAD SK
S/O BACHCHU SK.
R/O VILL-KHUDIMAR
P.S. GAURIPUR, DIST. DHUBRI, ASSAM, PIN-78331

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS. K DEVI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 16-02-2024

Heard Mr. R.S. Mishra, learned counsel for the petitioner Nur Mohammad SK.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure, 1973 (CrPC for short) with a prayer for bail as he is behind

bars since 05.08.2022 in connection with Special (NDPS) Case No. 16/2023 arising out of Gauripur Police Station Case No. 259/2022 under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. It is submitted that the petitioner's name is not mentioned in the FIR. The petitioner was allegedly apprehended on suspicion. The petitioner is willing to abide by any stringent bail conditions if imposed upon him.

4. The FIR unfolds that an information was received on 29.05.2022 that one Anowar Hussain @ Bihari was about to supply contraband at N.H. 31 in Alomganj Bazaar. The investigating team then proceeded to the Bazaar and laid ambush. When two suspected accused noticed the police they tried to flee but the investigating team managed to apprehend one of the accused who revealed his name as Nazimul Hoque while the other miscreants managed to flee. Finally the other miscreant was identified as Ali Hussain who was also apprehended in connection with this case. Search and seizure was conducted as per proper procedure. 13.84 Gm of heroin was recovered which was seized along with the motorbike.

5. During investigation it was unearthed that the present petitioner has been involved in drug trafficking and the present petitioner has also supplied contraband to several addicts in the area.

6. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent State. It is fairly submitted by the learned Additional Public Prosecutor that charge has not been framed. It is also submitted by the learned Additional Public Prosecutor that 38 bottles of cough syrup were recovered from the possession of the petitioner during investigation.

7. I have scrutinized the LCR. This is case is still pending at the stage of

appearance. NBWA has been issued against a co-accused named in the FIR. Scanned copies of the LCR reveal that this case is at the stage of appearance. Trial has not yet commenced. The petitioner is behind bars without trial for 560 (Five Hundred Sixty) days. The learned counsel for the petitioner has also prayed for bail on the ground of parity as the other co-accused who were arrested in connection with this case have already been granted bail vide order dated 05.09.2022 in Bail Appln. No. 2208/2022.

8. Considering the peculiar facts and circumstances of this case, I deem it a fit case to grant bail to the petitioner. The petitioner is enlarged on bail on furnishing a bail bond of Rs.1,00,000/- (Rupees One Lac) with two suitable sureties of like amount to the satisfaction of learned trial Court under the conditions that:

- i) The petitioner shall not leave the jurisdiction of the Court without prior permission till completion of trial.*
- ii) The petitioner shall cooperate with the trial and shall not jump the bail.*
- iii) The petitioner shall refrain from such activities with which he is alleged.*

9. On breach of any of the bail conditions, this bail order shall stand cancelled.

10. The trial Court may commence the trial immediately, and if required, to split up the case against the accused who is absconding and evading appearance.

In the above terms this Bail Application stands disposed of.

JUDGE

Comparing Assistant