GAHC010156742020

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

Case No. : Bail Appln./2372/2020

MANJIL BORO
S/O- LATE BHUPEN BORO, VILL.- BAMUNGAON PART-I, P.O. SILGAR, P.S. AND DIST.- KOKRAJHAR, ASSAM- 783360.

VERSUS

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

Advocate for the Petitioner : J U AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE HITESH KUMAR SARMA

ORDER

08-12-2020

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioner, namely, **Sri Manjil Boro,** in connection with **Kokrajhar Police Station Case No. 454/2020**, registered **under Section 22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985**.

I have perused the petition including the copy of the FIR and the documents annexed therewith.

The case diary produced has been perused.

Heard Mr. J.U. Ahmed, learned counsel appearing for the petitioner and Mr. N.J. Dutta, learned Additional Public Prosecutor, appearing for the State.

The learned counsel for the petitioner has submitted that the accused-petitioner was arrested on 17-08-2020 and since then he has been in custody for a period of 114 days as on date

and charge-sheet has not been laid yet; therefore, he is entitled to grant of default bail.

Mr. Dutta, learned Additional Public Prosecutor, while producing the case diary, has submitted that charge-sheet has not yet been laid and as such he has subscribed to the submission made by the learned counsel for the petitioner on that count.

Mr. Dutta, learned Additional Public Prosecutor has also agreed to the submission that the petitioner was apprehended with 9 plastic containers and 9 grams of suspected brown sugar. The seizure list, as available in the case diary, also indicates that 9 plastic containers and 9 grams of suspected brown sugar were recovered.

That being so, the provision of Section 22(c) of the NDPS Act is, *prima facie,* not attracted; rather, Section 22(b) of the NDPS Act is attracted in view of the fact that the quantity of the suspected contraband (Brown Sugar) seized is greater than the small quantity and lesser than the commercial quantity.

The last entry in the case diary is dated 24-08-2020. It appears that the sample of the suspected contraband has been sent for forensic science examination and there is no instance in the case diary to indicate that FSL report has been received. The case diary reveals that investigation of the case has not been completed.

In view of the above observations made by this Court, it appears that the statutory period for completion of investigation of a case of the present nature is 60 days although the petitioner has been in custody for a period of 114 days and, therefore, he is entitled to default bail. That being so, he is granted bail.

Accordingly, the accused-petitioner, named above, shall be released on bail in connection with the case aforementioned on furnishing bail bond of **Rs.20,000/-** with **two suitable sureties,** each of the like amount, to the satisfaction of learned Special Judge under the NDPS Act, Kokrajhar on conditions to be imposed by the learned Special Judge under the NDPS Act, Kokrajhar.

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

Return the case diary.

JUDGE

Comparing Assistant