

GAHC010038652024



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

Case No. : Bail Appln./523/2024

RISHI KUMAR AND ANR
SON OF DINESH SINGH, RESIDENT OF VILLAGE - KADWA BORWA TOLA,
P.O. KADWA DIYARA, P.S. NAUGACHHIA, DISTRICT - BHAGALPUR, BIHAR.

2: DEEPAK SINGH
SON OF LATE MOHAN SINGH
RESIDENT OF VILLAGE - DONIA TOLA PAKRA
P.O
PAKRA
P
S. NAUGACHHIA
DISTRICT - BHAGALPUR
BIHA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

21.06.2024

Heard Mr N Mahajan, learned counsel for the petitioners, 1) Rishi Kumar and 2)

Deepak Singh, who have filed this application under Section 439 of the Code of Criminal Procedure, 1973, with prayer for bail as they are behind bars since 22.02.2023, in connection with Special (Nar) Case No. 78(BGN)/2023, arising out of Bongaigaon GRPS Case No. 16/2023, under Sections 20 (b) (ii) (C)/29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS, in short).

2. Heard Mr B Sharma, learned Additional Public Prosecutor for the State of Assam.

3. It is submitted on behalf of the petitioners that they are languishing in the jail since 22.02.2023. The petitioners have prayed for bail on the ground of parity.

4. The learned counsel for the petitioners has relied on the decision of Hon'ble the Supreme Court, wherein the co-accused, Abhinav Kumar and Pashupati Mandal were granted bail by the Hon'ble Supreme Court in SLP(Crl.) Nos. 4769-4770/2024. The appellants, Abhinav Kumar and Pashupati Mandal were granted bail vide order dated 11.06.2024 in connection with SLP(Crl.) Nos. 4769-4770/2024. The cause of action of the aforementioned case is similar to the cause of action of this case, i.e., Special (Nar) Case No. 78(BGN)/2023.

5. Vide order dated 22.12.2023 in connection with Bail Application No. 3112/2023, the bail prayer of the petitioners, Abhinav Kumar and Pashupati Mandal were rejected by this Court. Both the petitioners preferred an appeal before the Hon'ble Supreme Court and they were granted bail by the Hon'ble Supreme Court. The Bail Application No. 3112/2023 was also in connection with Special (Nar) Case No. 78(BGN)/2023.

6. The learned counsel for the petitioners have prayed for bail on the ground of parity and has thereafter, relied on the decision of Hon'ble the Supreme Court in *Anjan Nath – Vs- State of Assam*, in connection with Special Leave to Appeal (Crl.) No. 9860/2023.

7. It has been submitted by the learned counsel for the petitioner that vide Judgment and order dated 19.07.2023, passed by this Court in Bail Application No. 2022/2023, the petitioner, Anjan Nath's prayer for bail was rejected. The appellant then challenged this order dated 19.07.2023, before Hon'ble the Supreme Court and he was granted bail. It was observed in *Anjan Nath's case (supra)* that-

“3. Taking into consideration the fact that the similarly circumstanced accused has already been released on bail by this Court, we are inclined to grant bail to the petitioner.

4. The petitioner is directed to be released on bail in connection with Special (NDPS) Case No. 122 of 2021, under Section 22(c)/25/29 of the NDPS Act, pending before the Special Judge, Karimganj, arising out of FIR No. 432 of 2021 (G.R. No. 3617 of 2021) registered at Police Station Nilambazar, to the satisfaction of the Trial Court.”

8. Relying on the decision of Hon'ble the Supreme Court in *Anjan Nath's case (supra)*, the present petitioners, 1) Rishi Kumar and 2) Deepak Singh, have also prayed

for bail on the ground of parity.

9. I have considered the submissions at the Bar with circumspection.

10. I have also relied on the decision of Hon'ble the Supreme Court in *Abhinav Kumar's case (supra)* and *Anjan Nath's case (supra)*. It is manifest that *Abhinav Kumar's case (supra)* and the case of the present petitioners is based on the same cause of action. Therefore, as the petitioners are similarly circumstanced with *Abhinav Kumar's case (supra)*, the petitioners' prayer for bail is allowed. The petitioners are enlarged on bail of Rs. 50,000/- each, with one suitable surety each of the like amount to the satisfaction of the learned trial Court, under the conditions that-

- i) the petitioners shall refrain from such activities with which they are alleged,
- ii) the petitioners shall not jump the bail,
- iii) the petitioners shall not leave the jurisdiction of the Court, without prior permission, till completion of trial.

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

11. Bail Application stands disposed of.

12. Send back the Case Diary.

JUDGE

Comparing Assistant