

GAHC010014842024



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

Case No. : AB/184/2024

SHER ALI @ SER ALI
S/O KISMAT ALI
R/O- VILLAGE DHARMASALA PART-III, P.S. DHUBRI, DIST.DHUBRI,
ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M A ISLAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

25.01.2024

Heard Mr. M.A. Islam, learned counsel for the applicant and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 438 Cr.P.C. is preferred by the applicant, namely,

Sher Ali @ Ser Ali, who has been apprehending arrest in connection with Dhubri P.S. Case No.18/2024, under Section 20(b)(ii)(A) of the NDPS Act, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by S.I. Dipjyoti Arjya of Dharmasala W.P. on 13.01.2024. The essence of allegation made in the aforesaid FIR is that acting on a tip off the informant and his staff apprehended one Sher Ali and recovered 615 gm of Ganja in a plastic bag.

4. Mr. Islam, learned counsel for the applicant submits that the quantity of contraband substance allegedly recovered from the possession of the applicant is a small quantity and the maximum punishment that can be imposed upon the applicant is only one year and that the applicant is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, submits that at this stage case diary may be called for.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. It appears that the contraband substance allegedly recovered from the possession of the applicant is only 614 gm and the maximum punishment that can be imposed upon the applicant is only one year. Having regards to the nature and gravity of the offence and the punishment prescribed for the same, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Sher Ali @ Ser Ali, in connection with Dhubri P.S. Case No.18/2024, under Section 20(b)(ii)(A) of the NDPS Act, he shall be released on pre-arrest bail on his executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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) The applicant shall not leave the jurisdiction of the learned Special Judge (NDPS), Dhubri, without prior permission

8. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant