

GAHC010052272024



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

Case No. : Bail Appln./729/2024

PUJA DUTTA
D/O LATE SADHAN DUTTA
R/O H. NO. 109, RIO COLONY,
P.S. SUB URBAN
DIST. DIMAPUR, NAGALAND.

VERSUS

UNION OF INDIA
TO BE REP. BY THE NARCOTICS CONTROL BUREAU, GUWAHATI ZONAL
UNIT, GUWAHATI.

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : SC, NCB

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 24.04.2024

Heard Mr. A. Ahmed, learned counsel for the accused-petitioner. Also heard Mr. S.C. Keyal, learned Standing counsel, NCB.

2. This is an application filed under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioner, namely, **Puja Dutta**, in connection with **NDPS Case No. 222/2021(arising out of NCB Guwahati Crime No. 13 & 13 (A)/2021)**, pending in the court of **learned Additional Sessions Judge No. 2, Kamrup(M), Guwahati.**

3. The factual matrix leading to this bail application is that the informant who is the NCB official lodged an FIR, alleging *inter alia* that on 24/06/2021, he received information that a huge quantity of narcotic substance was being transported through Shree Maruti courier services Pvt. Ltd. from Kolkata to Dimapur. Thereafter, the NCB team visited the office of Maruti courier services at Guwahati and requested the officials of courier service to produce the list of persons scheduled for Dimapur. Accordingly, large quantity of contrabands were detected which were about to be transported to Raj Cosmetic and Shweta Enterprises of Dimapur. Thereafter, the NCB officials seized all the contrabands. Consequently, one Saurabh Dutta, came to the office of Maruti courier services to collect the parcel. Then he was apprehended by the NCB team. After that the said Saurabh Dutta called his sister Puja Dutta to come to the office of said courier service at Dimapur. As soon as she arrived there, the NCB officials arrested her.

4. It was urged by the learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. The actual fact is that one of her friends namely Krishna Biswas with whom she has romantic relationship, worked for Raj cosmetic. On that day, Krishna Biswas called her brother Saurabh Dutta that one consignment of Raj Cosmetic has arrived at Maruti courier service and asked him to receive the same. Accordingly, the brother of the petitioner went to the office of courier service

to receive the consignment, then the NCB team apprehended him. Thereafter, the NCB official asked him to call his sister, i.e. the present petitioner and accordingly when the petitioner arrived in the office of Maruti Courier service, she was also arrested by the NCB team.

5. Learned counsel for the petitioner has further contended that from the facts and circumstances, it is clear that the petitioner had no knowledge about the contrabands and she was not in conscious possession of the alleged contrabands as the said contrabands were recovered from the office of the Maruti courier service, Guwahati and the consignor of the said contraband was Raj Cosmetics and consignee was Shweta Enterprises, Dimapur. Therefore, the rigors of section 37 of the NDPS Act are not applicable in the present case.

6. It is also submitted by the learned counsel for the petitioner that the petitioner has been languishing in judicial custody for more than two years and out of 11 witnesses, only 1 witness has been examined and if the trial is continued in this manner, it would take another 5/6 years for completion of the trial.

7. Learned counsel for the petitioner also has pointed out that the co-accused was released on bail by this court and therefore, considering the length of detention as well as the above facts and circumstances of the case, the petitioner may also be enlarged on bail.

In support of his submissions learned counsel has placed reliance on the following case law –

(i). Bail application no 4040/2023 (Zoramawia vs. State of Assam)

8. On the other hand, learned Standing counsel NCB has submitted

that the present petitioner came to receive the consignment from the office of Maruti courier, when called by her brother Saurabh Dutta. During inquiry, the petitioner also confessed that she was consciously involved in the trafficking of drugs. She has also disclosed that there was no any firm in the name of Shweta Enterprise in Dimapur and she was using fake name like Shweta Enterprise to receive the consignment of drugs under the impression of cosmetics. Learned Standing counsel for the NCB further has submitted that though charge was framed on 06/06/2023, however, only one witness was examined so far. But due to delay on the part of the prosecution to dispose of the matter within such period, it cannot be a ground to release the accused on bail.

In support of his submission learned Standing counsel has placed reliance on the following case laws –

- (i) 2021 Legal Eagle (SC) 538 (Union of India through NCB, Lucknow vs. Nawaz Khan)
- (ii) 2024 Legal Eagle (SC) 107 (Gurwinder Singh vs. State of Punjab and another)
- (iii) (2023) 8 Supreme 212 (Tarun Kumar vs. Assistant Directorate of Enforcement)
- (iv) Bail Application 3765/2023 (Baiju Thakur vs. Union of India)

9. I have considered the submissions of the learned counsel for the parties. I have also perused the trial court record. The questions like whether the contraband recovered from the conscious possession of the petitioner or is of commercial quantity, need not be go into at this stage.

10. Admittedly, the contraband capsules containing Tramadol were

seized from the office of Shree Maruti Courier services at Guwahati. No any contraband was recovered from the possession of the present petitioner. According to learned counsel NCB, the present petitioner has disclosed in her voluntary statement recorded u/s 67 of NDPS Act that after collecting the consignment of drugs, she used to hand it over to co-accused Krishna Biswas and Krishna Biswas used to pay her for that. Except such voluntary statement, it is not reflected in the trial court record, how the petitioner is associated with Raj Cosmetics or Shweta Enterprise, Dimapur.

11. The most disturbing feature noticed in this case is that charge was framed on 06/06/2023 by the trial court. Thereafter, only one witness was examined on 04/07/2023. For last 9 months, no any witness was examined by the prosecution. Order sheet of the trial court record does not reflect the fact that the trial court has taken any such initiative to dispose of the matter with much effort.

12. This court is inclined to release the petitioner on bail only on the ground that she has spent about 3 (three) years in custody and the conclusion of trial will take some time. Consequently, without expressing any views on the merits of the case and taking into consideration the custody period of the petitioner, the bail application is allowed. The petitioner is ordered to be released on bail on furnishing bail bond of Rs. 1, 00,000/- (Rupees One Lac Only) with two suitable sureties of the like amount to the satisfaction of the learned Addl. Sessions Judge No. 2, Kamrup(M), Guwahati, Assam.

The direction for bail is further subject to the conditions that the petitioner:

- (a) shall not leave the territorial jurisdiction of learned Addl. Sessions Judge No. 2, Kamrup(M), Guwahati, Assam without prior written permission from him/her;
- (b) 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.

13. The learned Addl. Sessions Judge No. 2, Kamrup(M), Guwahati, Assam is at liberty to impose any other condition(s) as it deems fit and proper at the time of releasing the accused/petitioner on bail to procure her attendance during trial.

14. The observation made above, shall confine for the purpose of disposal of this bail application only and shall not in any way affect the proceeding of the trial.

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

JUDGE

Comparing Assistant