

GAHC010022602024



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

Case No. : Bail Appln./348/2024

AMIR HUSSAIN
S/O SAMSUL HOQUE
R/O UTTAR MAHTOLI, P.O. MAHTOLI
P.S. BOKO
DIST. KAMRUP, ASSAM
PIN-781136
MOBILE NO. 98640-27090

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

15.02.2024

Heard Mr. A.K. Azad, learned counsel for the accused and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Amir Hussain, who has been languishing in jail hazot since 08.01.2024, in connection with Boko P.S. Case No.20/2024, under Section 20(b)(ii)(B) of the NDPS Act, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Rijumoni Bangthai, WSI of Sontoli Out Post on 07.01.2024. The essence of allegation made in the aforesaid FIR is that acting on a tip off, she along with police staff on 07.01.2024, at about 3:00 a.m., conducted search in the house of one Amir Hussain and recovered one yellow coloured polythene bag containing 5.080 kg Ganja with polythene bag and seized the same in presence of witnesses.

4. Mr. Azad, learned counsel for the accused, submits that the accused was arrested on 07.01.2024 and since then, he has been languishing in jail hazot for last 38 days and that the quantity of contraband substance allegedly recovered from the possession of the accused is 5.080 kg with polythene bag, which is intermediate quantity and that the accused 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, Assam, has produced the case diary before this Court and submits that material part of investigation is almost over and the case is pending for collection of FSL report only.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baruah, learned Additional P.P.

7. The case diary indicates that the I.O. has achieved substantial progress in the investigation of this case and it is pending for collection of FSL report only. The accused is behind the bar for last 38 days and the quantity of contraband substance allegedly recovered from the possession of the accused is 5.080 kg with polythene bag, and admittedly it is the intermediate quantity and as such the embargo under Section 37 of the NDPS Act will not come into play here in this case.

8. Under the aforementioned facts and circumstances, further custodial detention of the accused may not be required in the interest of investigation and therefore, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Special Judge (NDPS Act), Kamrup, Amingaon, the accused, namely, Amir Hussain, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant