

GAHC010024532024



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

Case No. : Bail Appln./381/2024

ABHI NARZARY AND 2 ORS.
S/O HRIDOV NARZARY
R/O VILL- ARART JOYPUR,
P.S. BISWNATH CHARIALI,
DIST. BISWANATH, ASSAM

2: JINOBIA NARZARY
S/O JITEN NARZARY
R/O VILL- ARART JOYPUR

P.S. BISWNATH CHARIALI
DIST. BISWANATH
ASSAM

3: DOMINIC NARZARY
R/O VILL- ARART JOYPUR

P.S. BISWNATH CHARIALI
DIST. BISWANATH
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : TUN RAJKHOWA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.02.2024

Heard Ms. T. Rajkhowa, 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 three accused, namely, Abhi Narzary, Jinobi Narzary and Dominic Narzary, who have been languishing in jail hazot since 29.12.2023, in connection with Biswanath Chariali P.S. Case No.208/2023, under Section 20(b)(ii)(B) of the NDPS Act, read with Section 4 of the Assam Ganja and Bhang Prohibition 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 Kiran Pegu, S.I. of Police, Biswanath Chariali P.S., on 29.12.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off on 29.12.2023 the informant and other police staff conducted Naka checking at Rangamuri and apprehended three individuals, namely, Abhi Narzary, Jinobi Narzary and Dominic Narzary and recovered 5.030 kg of Ganja from their possession.

4. Ms. Rajkhowa, learned counsel for the accused, submits that the accused persons were arrested on 29.12.2023 and since then, they have been languishing in jail hazot for last 55 days and that the quantity of contraband substance allegedly recovered from the possession of the accused persons is intermediate quantity i.e. 5.030 kg and as such, the embargo under Section 37 of the NDPS Act will not come into play and that they are 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 the

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 the case is pending only for collection of FSL report. The accused persons were arrested on 29.12.2023 and since then they are behind the bar for last 55 days. Thus, balancing the period of detention with the nature and gravity of the offence, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- each, with one surety of the like amount to the satisfaction of the learned Special Judge (NDPS Act), Biswanath Chariali, in connection with Biswanath Chariali P.S. Case No.208/2023, under Section 20(b)(ii)(B) of the NDPS Act, read with Section 4 of the Assam Ganja and Bhang Prohibition Act, the accused, namely, Abhi Narzary, Jinobi Narzary and Dominic Narzary, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant