

GAHC010000222024



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

Case No. : Bail Appln./20/2024

AJIT BORO @ GARO
S/O LATE PARIMAL BORO
R/O LALMATI, SAMUGURI, HOUSE NO. 43,P.S. BASISTHA, DIST. KAMRUP
(METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N AHMED

Advocate for the Respondent : PP, ASSAM

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

ORDER

09.01.2024

Heard Mr. N. Ahmed, 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, Ajit

Boro @ Garo, who is languishing in jail hazot since 25.12.2022, in connection with Basistha P.S. Case No.1035/2022, under Section 21(a)/29 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 S.I. Mukunda Sarmah of Basistha P.S. on 04.12.2022. The essence of allegation made in the aforesaid FIR is that acting on a tip off he along with other police staff have apprehended three accused persons at Kerakuchi, behind Hockey Stadium, namely, Sri Vicky Sonar, Sri Sanjay Kumar Shah and Sri Dipankar Bhuyan and after conducting search on their persons, they have recovered 3.12 gm of suspected heroin from their joint possession.

4. Mr. Ahmed, learned counsel for the accused, submits that the accused was arrested on 25.12.2022 and since then he has been languishing in jail hazot for more than one year and that the quantity of contraband substance allegedly recovered from the joint possession of the accused persons is a small quantity and the punishment prescribed for the same is only one year and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary and prays for granting him some more time to produce the case diary.

6. But, in view of the nature of allegation and the period of detention, this Court is of the considered opinion that without perusing the case diary the bail application may be disposed of and accordingly, it is decided to dispose of the petition.

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

8. It appears that the accused is languishing in jail hazot since 25.12.2022 for more than one year. Further, it appears that the case was registered under Section 21(a)/29 of

the NDPS Act for recovery of 3.12 gm of suspected heroin from the joint possession of the accused persons. Indisputably, the quantity of contraband substance, allegedly recovered from the joint possession of the accused persons, is a small quantity and the punishment prescribed for the offence is only one year with fine.

9. Having regards to the nature of accusation and the punishment prescribed for the same and balancing the same with the period of detention, this Court is of the view that further custodial detention of the accused may not be required in the interest of investigation and accordingly, this Court is inclined to allow the petition.

10. It is provided that on furnishing a bond of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Special Judge (NDPS), Kamrup(M), Guwahati, the accused, namely, Ajit Boro @ Garo, be enlarged on bail.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant