

Present:- Sri N. J. Haque, CJM, Sonitpur, Tezpur

Tezpur PS case No-1151 of 2021

GR Case No-1891 of 2021

Under Section-21(a) of NDPS Act

ORDER

07.08.2021

Case record put up today along with a petition bearing No-466/21 filed by the Ld. Advocate of the accused named Smt. Anjali Kalita praying bail of accused person, named, Md. Abul Kasem.

Heard both sides and perused the petition along with case record carefully.

By this order this Court proposed to dispose of the bail application filed for the above-named accused who is languishing in judicial custody since from 08.06.2021 in connection with this instant case.

On perusal of the entire case record, it disclosed that the instant prosecution case sets in motion against the accused named Md. Abul Kasem on filing an ejahar by the informant SI Bhargav Borbora I/C of Borghat Police Outpost under Tezpur PS on 07.06.2021 alleging inter-alia that on 06.06.2021 at about 10:30 PM, on the basis of an information, he along with his staff raided the house of above-named accused Md. Abul Kasem and recovered two small plastic containers having suspected Narcotic Drugs and Psychotropic Substances (Brown Sugar) wight about 4.68 grams and 1.64 grams respectively from the possession of the above named accused person.

Accordingly, Tezpur PS Case No-1151 of 2021 was registered u/s-20(a) of NDPS Act. On careful perusal of the case record, it also disclosed that the investigating officer has apprehended the accused person named, Md. Abul

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Kasem and produced before the court on 08.06.2021 and since from then he is languishing in judicial custody.

In this case, it is further seen that today the accused has completed statutory period of 60 days in judicial custody and till date the I/O failed to submit Final Form of Report against the accused.

Further Section-20(b)(ii)(A) of NDPS Act involved with small quantity of drugs which is punishable rigorous imprisonment for a term which may extend to six months, or with fine, which may extend to ten thousand rupees, or with both. As per the nature of alleged offence, the statutory period of default bail provided in Section-167(2) of CrPC is 60 days and the accused already undergone beyond the period of 60 days in judicial custody. The prosecution side did not file any objection against the bail prayer of the accused.

In Bipin Shantilal Panchal –Vs- State of Gujrat (1996 1 SCC 718), Papuram –Vs- State of Rajasthan 2017 SCC Online, Arvind Kumar Saxena –Vs- State, it was held that a default in not filing the charge-sheet would confer an indefeasible right to the accused. In this case no prayer filed by the I/O through the prosecution for extending the remand of judicial custody of the accused. Considering all the aspect, it is seen that in this case the I/O failed to submit Final Form of Report against the accused person and the accused already undergone the period of 60 days in judicial custody. Hence, the accused is entitled to get the default bail. Moreover, at this stage release of accused shall not hamper and temper the investigation of I/O.

Therefore, considering all the aspect, this court finds that the accused has the absolute right to release on the default bail. Accordingly, accused is allowed to go on bail of Rs. 20,000/- with one surety of like amount i/d to jail hajot.

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In the event of release of the accused, he shall comply the followings:-

- (i) The accused will have to appear before the I/O on every Saturday between 10 AM to 1 PM for a period of 3 months;
- (ii) The accused cannot intimidated/attempted the influences of witnesses or temper the evidence;
- (iii) Accused person shall not repeat similar types of offences after his release from judicial custody;
- (iv) The accused shall co-operate with the I/O till the I.O concludes his investigation;
- (v) The accused shall not leave the local jurisdiction of the Court without prior permission of the O/C Tezpur PS.

Accordingly, the instant petition filed by the petitioner named, Md. Abul Kasem stands disposed of.

Sri N. J. Haque
Chief Judicial Magistrate
Sonitpur at Tezpur