

Crl. Misc. (B) Case No. 133/2022

11-04-2022

Learned Advocate for accused Kousik Sonowal is present.

A report (W/T message) was received from the O/C of Barbaruah P.S. on 08-04-2022 stating that charge-sheet vide C.S. No. 27/2022 has been laid in the case, and the case diary along with the C.S. has been submitted for forwarding to the Court of Hon'ble Sessions Judge, Dibrugarh through proper channel of police department. Accordingly, vide order dated 08-04-2011, it was directed that the case diary (along with the charge-sheet) be called for from the Prosecuting Inspector, Dibrugarh (if the same has been received from the concerned P.S.) for considering the bail application filed for the accused.

Today a report has been received from the Prosecuting Inspector, Dibrugarh to the effect that Barbaruah P.S. Case No. 17/2022 is pending with the concerned I/O and no any charge-sheet has been submitted by the I/O till date.

Heard both the sides.

This bail application has been filed for the accused Kousik Sonowal in connection with Barbaruah P.S. Case No. 17/2022, u/s 22(b)/23(b)/27/29 of N.D.P.S. Act.

The allegation in the F.I.R. dated 07-02-2022 is that on that day, acting on an information from a reliable source regarding smuggling of a consignment of a good quantity of suspected psychotropic substance through N.H.-15 (Old N.H.-52B) by a group of riders, the Police party (along with C.R.P.F. personnel) set up a special checking on N.H.-15 at Bogibeel and intercepted a group of youth while they were riding on four motorcycles and coming from Dhemaji side through Bogibeel bridge. Seven persons were riding the said motorcycles, including the accused Kousik Sonowal. Searches of the motorcycles and of the body of the riders were made and suspected Heroin powder was recovered. Suspected Heroin



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powder weighing 0.27 gram was recovered on searching the body of Bhaity Doley along with whom Pranjit Doley was riding on the motorcycle bearing registration No. AS-06X-8504. Suspected Heroin powder weighing 2.76 gram was recovered on searching the body of Joni Baruah along with whom Sagar Sonowal was riding on the motorcycle bearing registration No. AS-23V-9961. Suspected Heroin powder weighing 0.57 gram was recovered on searching the body of Mickel Pegu who was riding the motorcycle bearing registration No. AR-01D-4314. Suspected Heroin powder weighing 31.82 gram was recovered on searching the motorcycle bearing registration No. AS-06AA-2651 on which Porag Jyoti Sonowal and Kousik Sonowal were riding. In total, 35.42 gram of suspected Heroin powder was recovered.

The accused Kousik Sonowal has been in custodial detention since 08-02-2022, i.e. for 62 days. Though it was reported before this Court by the O/C of Barbaruah P.S. that charge-sheet vide C.S. No. 27/2022 has been laid in the case, and the case diary along with the C.S. has been submitted for forwarding to the Court of Hon'ble Sessions Judge, Dibrugarh through proper channel of police department, but charge-sheet has not been received as yet by Prosecuting Inspector, Dibrugarh from Barbaruah P.S., as it is seen from the above report of Prosecuting Inspector, Dibrugarh, who has stated that Barbaruah P.S. Case No. 17/2022 is pending with the concerned I/O. Barbaruah P.S. Case No. 17/2022 is registered u/s 21(b)/23(b)/27/29 of NDPS Act. The statutory period of detention in the present case is 60 days. On the other hand, the accused has been in custodial detention for 62 days. So, an indefeasible right to go on bail has accrued to the accused as per Section 167(2) Proviso (a) of CrPC.

At the same time, it may also be mentioned that the investigation of the case appears to have been completed, which is apparent from the aforesaid W/T message of O/C of Barbaruah P.S., but due to reasons best known to the O/C of


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Barbaruah P.S., the charge-sheet has not yet reached the Prosecuting Inspector, Dibrugarh in spite of the completion of investigation. Considering the length of custodial detention of the accused and the completion of investigation, further custodial detention of the accused Kousik Sonowal is not felt necessary. The limitations on granting of bail specified in clause (b) of sub-section (1) of Section 37 of NDPS Act are not applicable to the present case. That apart, the co-accused Pranjit Konwar has already been enlarged on bail vide Order dated 01-04-2022 passed by the Hon'ble Sessions Judge, Dibrugarh in Crl. Misc. (B) Case No. 117/2022.

Considering all the aspects in entirety, the accused Kousik Sonowal is allowed to go on bail, in connection with the above mentioned case, on furnishing of bail-bond for a sum of ₹35,000/- (Rupees Thirty-Five Thousand) with a suitable surety of the like amount, but on the following conditions:-

- (1) that the accused shall attend the learned Trial Court regularly on all fixed dates until the disposal of the N.D.P.S. case (which will be registered in due course);
- (2) that the accused 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/her from disclosing such facts to the Court or to any police officer; and
- (3) that the accused shall not commit any offence similar to the offence of the present case.

This Crl. Misc. (B) case stands disposed of accordingly.


Addl. Sessions Judge,
Dibrugarh
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Dibrugarh