

GAHC010001912023



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

Case No. : Bail Appln./70/2023

KOBIR MIAH
S/O FULJAR MIAH
R/O VERVERI, P.S. LAKHIPUR,
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 20-01-2023

Heard Mr. F. Haque, learned counsel for the accused-petitioner and Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Kobir Miah has prayed for his release on bail in connection with Hatigaon Police Station Case no. 564/2022, registered for offence under Section 392, Indian Penal Code [IPC].

3. In the First Information Report [FIR], the informant has alleged about snatching away of her mother's handbag by an unknown miscreant, when the informant and her mother were

going on foot by East Bye-Lane no. 1, Basisthapur at around 03-30 p.m. on 13.12.2020. The informant has claimed that handbag contains articles like his mobile phone and some amount of cash.

4. As per the forwarding report, the accused-petitioner was arrested and produced before the Chief Judicial Magistrate, Kamrup [M], Guwahati on 28.10.2022 and on being so produced, he was remanded to custody. The accused-petitioner was arrested on the ground that during the course of investigation, 10 [ten] nos. of mobile handsets, suspected to be stolen, had been recovered and seized from the possession of the accused-petitioner.

5. Mr. Haque, learned counsel for the accused-petitioner has submitted that the accused-petitioner runs a mobile repairing shop and in the course of his business, the mobile phones are kept in the shop. The alleged stolen mobile of the informant's mother was not amongst the mobile phones seized and he had not received the mobile phone from any person and he has further submitted that the accused-petitioner was not the person who has snatched away the handbag of the informant's mother.

6. Mr. Sarma, learned Additional Public Prosecutor who has received the case diary, has submitted that the petitioner is suspected to be involved in the alleged crime, on the ground that in his statement, the accused-petitioner has mentioned that he used to receive mobile phones, for repairing, some of which later, turned out to be stolen ones. But he has, however, submitted that the mobile phone allegedly stolen from the informant's mother was not recovered from the possession of the accused-petitioner.

7. Having regard to the above materials available in the case diary and considering the fact that the accused-petitioner is in custody since 28.10.2022, this Court is of the considered view that further custodial detention of the accused-petitioner is not necessary for the purpose of carrying out further investigation of the case and his release on bail, at this stage of investigation, is unlikely to bring any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

8. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of ₹ 25,000/- with one local surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate [M], Kamrup [M], Guwahati, subject to the conditions that :-

[i] the accused-petitioner shall co-operate with the investigation and make himself available for interrogation whenever required by the Investigating Officer [I.O.] of the case;

[ii] the accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge-sheeted in the case.

9. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant