

GAHC010009702023



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

Case No. : Bail Appln./167/2023

PARVEZ AHMED BARBHUIYA
S/O. LT. TUTA MIA BARBHUIYA, VILL. UTTAR KRISHNAPUR PART-II, P.O.
UTTAR ARISHNAPUR PART-II, P.S. SILCHAR, DIST. CACHAR, ASSAM, PIN-
788006.

VERSUS

THE UNION OF INDIA
REP. BY THE PUBLIC PROSECUTOR, RAILWAY PROTECTION FORCE.
(N.R.RAILWAY)

Advocate for the Petitioner : MS. R S SADIAL

Advocate for the Respondent : SC, NF RLY

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

19.01.2023.

Heard Mr. MR Sodial, learned counsel for the accused. Also heard Mr. PS Lahkar, learned CGC, appearing for the respondent Union of India.

This application, under Section 439 of the Code of Criminal Procedure, is preferred by accused, namely, Parvez Ahmed Barbhuiya, who is languishing in jail hazoot since 06.01.2023, in connection with CR Case No.02/2023, arising

out of RPF/POST/LMG Case No.1/2023, under Section 3(a) of the Railway Property (Unlawful Possession) Act, for granting of bail.

It is to be noted here that the aforementioned case has been registered on the basis of an F.I.R., lodged by one Nandeswar Das, IPF/CIB/LMG, on 06.01.2023, to the effect that acting on a tip off, they have conducted search in the house of Alok Dey and recovered two numbers of iron grill, belonging to the Railway and seized the same, in presence of witnesses, preparing seizure list.

The allegation against the present accused is that, he had sold the aforesaid two iron grills to arrested accused Alok Dey.

Mr. Sodial, learned counsel for the accused submits that the accused was arrested on 07.01.2023, and since then, he has been languishing in the jail hazoot and the stolen articles have already been recovered and seized by the investigating agency vide Annexure-4 and as per the FIR, the value of the stolen article is Rs.2,000/- only and that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

Whereas, Mr. PS Lahkar, learned CGC submits that the case diary may be called for.

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

It appears that the stolen article has already been recovered and seized by the investigating agency and the values of the same is only Rs.2,000/-, as per the FIR, Annexure-1.

Having regard to the nature and accusation of the offence alleged and the punishment prescribed for the same and further considering the period of detention of the accused in the jail hazoot since 07.01.2023, his further

custodial detention seems to be not warranted here in this case. And accordingly, it is provided that on furnishing a bond of Rs.25,000/- (Rupees twenty thousand) only, with one surety of like amount to the satisfaction of the learned Special Railway Magistrate, Guwahati, the accused person, named above, shall be enlarged on bail, in connection with the CR Case No.02/2023, arising out of RPF/POST/LMG Case No.1/2023.

In terms of above, this bail petition stands disposed of.

JUDGE

Comparing Assistant