

GAHC010031012023



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

Case No. : Bail Appln./583/2023

ISMAIL FOKIR
S/O- LATE KHALEK FOKIR, R/O- 2 NO. MULLAPATTY, P.S- NAGAON,
DISTRICT NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 13.03.2023

Heard Mr. S. M. Abdullah P., learned counsel for the applicant. Also heard Mr. N. Das, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, Ismail Fokir, who has been languishing in jail since 25.01.2023 in connection with Kaliabor P.S. Case No. 09/2022, under Sections 379 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the applicant, S. M. Abdullah P, that the accused/applicant is innocent and no way involved in the alleged act. It is the fact that the accused/applicant had purchased the vehicle from Shri Mujahidul Islam without having any knowledge that the Motorcycle which he purchased was stolen one. Thereafter, he sold the said vehicle to Ekram Kurashi and accordingly, from the possession of the said person the motorcycle was recovered by the Police. More so, he is in custody since 25.01.2023. Hence, considering his length of detention the accused/applicant has prayed for regular bail and is ready to co-operate with I.O. for further investigation of the case, if he is enlarged on bail.

On the other hand, Mr. N. Das, learned Additional Public Prosecutor has submitted that from the note of the IO as well as from the statement of the accused/applicant and the other witnesses, it is seen that the present accused/applicant had purchased the vehicle from Shri Mujahidul Islam and then sold the said vehicle to the Ekram Kurashi, but the main culprit involved in this case is yet to be booked. Further, the learned Additional Public Prosecutor has raised no objection to the prayer made by the learned counsel for the applicant.

Considering the submissions of the learned counsel for both sides and also considering the length of detention already undergone by the accused/applicant, I am of the view that the I.O. has got ample opportunity to interrogate the accused/applicant in the custody and accordingly, further custodial interrogation of the accused/applicant seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned SDJM, Kaliabor, the accused/applicant, namely, Ismail Fokir, be enlarged on bail, subject to the following conditions:

- (i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the applicant 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 from disclosing such facts to the Court or to any police officer; and
- (iii) that the applicant shall not leave the jurisdiction of the learned SDJM, Kaliabor, without prior permission.

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

JUDGE

Comparing Assistant