

GAHC010049702023



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

Case No. : Bail Appln./875/2023

AMIT CHOWDHURY
S/O SRI ATMA CHOWDHURY,
R/O HOUSE NO. 290, BYE LANE NO. 2,
BLOCK -D, JYOTIKUCHI, P.S. FATASIL AMBARI,
GUWAHATI-40, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K ROYCHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 23.03.2023

Heard Mr. P. K. Roychoudhury, learned counsel appearing for the accused petitioner as well as Mr. R. J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Shri Amit Chowdhury**, has prayed for grant of bail in connection with

Dharamtul P.S. Case No.62/2022 under Section **379** of the IPC r/w Section **22(a)** of the Petroleum Act.

The case diary, as called for, is placed before the Court.

The accused petitioner has been in judicial custody since 10.01.2023, i.e. for 65 days.

The matter relates to pilferage of oil by piercing the underground oil pipelines of the IOCL Ltd.

Mr. P. K. Roychoudhury, learned counsel appearing for the accused petitioner, submits that the accused has been in judicial custody for 65 days despite he is not named in the FIR nor he was involved in the alleged offence. Mr. Roychoudhury further submits that the accused has been falsely implicated in another case. According to Mr. Roychoudhury, the accused was arrested in connection with Raha P.S. Case No. 01/2023 on 10.01.2023 under Section 379 of IPC read with Section 23(a) of the Protection Act, 1934. It has been submitted that the accused has undergone interrogation in police custody for four days and, as such, his continuation of detention in judicial custody may not be warranted.

Per contra, Mr. R. J. Baruah, learned Addl. Public Prosecutor, submits that the accused is in judicial custody since 18.01.2023 on being shown arrested in connection with the instant case. Mr. Baruah further submits that the seizure memo shows that one iron pipe with valve on its one edge was seized, which was used for illegal pilferage of oil from the oil pipeline. A gang of thieves including the present accused are active in the district of Nagaon and Morigaon, who pilfer oil from pipelines by causing holes on those pipelines and thus, they

cause damage to the public property and risk to the areas. According to Mr. Baruah, such commission of offence is punishable under Sections 15(2)/15(4) of the Petroleum & Minerals Pipeline Amendment Act, 2011 in addition to Section 3(2)(b) of the Prevention of Damage to Public Property Act, 1984. Therefore, Mr. Baruah, submits that in view of the nature of evidence available on the case diary and the punishment prescribed for the aforesaid offences, the bail application of the accused may not be accepted.

It is noticed that the accused has been in judicial custody in connection with the instant case on being shown arrested since 18.01.2023, i.e. for 65 days.

The case diary reveals that the present accused and about thirteen others are prima facie involved in commission of pilferage oil by piercing the underground pipelines oil of the IOCL Ltd. in the district of Nagaon and Morigoan etc. of Assam and, accordingly, they are arrested. Three cases are registered at Nagaon, Raha and Dharamtul Police Station against them. Commission of the aforesaid alleged offence prescribes punishment with rigorous imprisonment for a term which may extend to ten years and fine under Section 15(2) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 in addition to the provisions of the Prevention of Damage to Public Property Act, 1984.

However, keeping in consideration that the accused petitioner has undergone interrogation in police custody for four days and length of detention (65 days) and further, the nature of evidence, so far collected against the accused petitioner, this Court is of the opinion that if the liberty of bail is granted to him, the ongoing investigation into the case is unlikely to be adversely

affected.

Therefore, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with two sureties of like amount to the satisfaction of the **learned C.J.M., Morigaon** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and
- ii) That the accused petitioner 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 Police Officer or the Court; and
- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission.

Any breach of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant