

GAHC010070722023



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

Case No. : Bail Appln./1231/2023

MD. ABDUL KAYUM
S/O LATE ABDUL HAKIM
R/O BARMA CAMP, NEAR VETENARY COLONY NO. 9,
P.S. DIMAPUR
DIST. DIMAPUR, NAGALAND.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 27.04.2023

Heard Mr. M. Biswas, 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, **Md. Abdul Kayum**, has prayed for grant of bail in connection with **GRPS Lumding P.S. Case No.19/2023** under Sections **120(B)/420/379/413/353** of the IPC, r/w Section **137** of the Railway Act corresponding to PRC Case No. 244/2023.

The scanned copy of the case record along with the case diary, as called for, is placed before this Court.

Mr. M. Biswas, learned counsel for the accused petitioner, submits that the accused has been languishing in judicial custody for 43 days in connection with the instant charge-sheeted case. Mr. Biswas further submits that all the goods, in question, are seized and there remains nothing to be recovered and the investigation, being completed, further continuation of his detention for the purpose of trial of the case may not be required.

Mr. R. J. Baruah, learned Addl. Public Prosecutor, Assam, submits that the case diary reveals that the accused was found carrying 136 nos. of packets of cigarettes of brand 'ESSE Lights' in his bag and after completion of investigation, police has laid a charge-sheet against him.

The matter relates to recovery and seizure of 136 nos. of packets of cigarettes of brand 'ESSE Lights' from the possession of the FIR named accused petitioner.

It is noticed that the accused petitioner has been in judicial custody since 14.03.2023, i.e. for 43 days.

A perusal of the case record reveals prima facie incriminating material against the accused petitioner.

However, keeping in consideration of the prolonged detention and completion of investigation, this Court is of the opinion that if the liberty of bail is granted to the accused, the trial of the case, if charges are framed, may likely to be unaffected.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 40,000/-** with one surety of like amount to the satisfaction of the **learned C.J.M., Shankar Dev Nagar, Hojai** subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the

learned trial Court on all dates to be fixed from time to time till the case is disposed of; 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 Court; and
- iii) That the accused petitioner and his bailor shall produce the Voter Identity Card/Passport/Permanent Residential Certificate, whatever is available at the time of submission of the bail bond for satisfaction of the learned Court below regarding his identity and address and then return the same retaining photocopy thereof on record; and
- iv) That the accused petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission.

This disposes of the bail application.

JUDGE

Comparing Assistant