

GAHC010071702023



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

Case No. : Bail Appln./1234/2023

VALA BHAVSINH @ BHAVNISH VALA
S/O- JESINGBHAI VALA, R/O- VILL.- SANDHANIDHAR, DIST. JUNAGADH,
P.S. KODINAR, PIN- 362710, STATE- GUJARAT, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 02.05.2023

Heard Mr. S. C. Biswas, learned counsel appears for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioner, Vala Bhavsinh @ Bhavnish Vala seeking bail as he was arrested

in connection with Guwahati GRPS Case No. 31/2023 registered under Sections 379/411/410/420 of IPC.

3. It is submitted by the learned counsel for the petitioner that an FIR dated 16.03.2023 was lodged by the informant, one, ASI, Pratap Nath of GRPS alleging that the petitioner was found walking in a suspicious manner of the platform of Kamakhya Railway Station and upon searching his bag, they found a biscuit shaped foreign origin gold from the possession of the petitioner. Since no legal documents were produced by the said person, it was suspected that the item recovered was suspected foreign origin gold. The petitioner was accordingly arrested and has been in custody since 16.03.2023.

4. Investigations have been carried on. This Court earlier called for the case diary along with the FSL Report. Although the Case Diary is available today, however the FSL report is not available.

5. Upon due perusal of the case dairy, it is found that there is no evidence as on date to suggest that the item recovered is a foreign origin gold. The matter although has been investigated, charge-sheet has not been filed as the FSL Report is awaited.

6. Upon due perusal of the case dairy, it is seen that there is only one item, which was recovered from the possession of the petitioner, no other item was recovered during the investigations carried on by the Police. No material is available

in the case dairy to suggest that further custodial detention is necessary. Nor are any materials available in the case dairy to suggest that the release of the petitioner at this stage of investigation will hamper the investigations carried on by the Police.

7. Accordingly, upon hearing the counsels and upon due perusal of the case dairy, this Court is of the view that considering the period of detention, and the progress of the investigation carried on, the petitioner is permitted to be released on bail. Accordingly, this Bail petition is allowed. The petitioner is directed to be released on bail forthwith subject to executing a bail bond of Rs.50,000/- (Rupees fifty thousand) only with two (2) local sureties of like amount subject to the satisfaction of the Chief Judicial Magistrate, Kamrup (M). The bail, granted however, is subjected to the following conditions:-

- i) The petitioner shall appear before the Investigating Officer as and when required and cooperate with the investigation.
- ii) The petitioner shall not move out of the jurisdiction of Chief Judicial Magistrate, Kamrup (M), without prior written permission from the Court of Chief Judicial Magistrate, Kamrup (M).
- iii) That the petitioner shall not hamper or tamper with the investigation in any manner; and

iv) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in connection to this Police Station Case.

8. If any of the conditions are found to be violated by the petitioner then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.

9. With the above direction, the bail petition is accordingly allowed and disposed of.

10. Return the case dairy.

JUDGE

Comparing Assistant