

GAHC010085372023



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

Case No. : Bail Appln./1451/2023

BHARGAB MALAKAR
S/O CHANDI CHARAN MALAKAR
R/O VILL- DUBI (MALIPARA), P.O. PATHSALA
P.S. PATACHARKUCHI
DIST. BARPETA, ASSAM
PIN-781325

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR K BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

03.05.2023

Heard Mr. K. Bhuyan, learned counsel for the accused-petitioner and Mr. R.R. Kaushik, learned Addl. PP for the State.

2. This bail application has been filed by the accused-petitioner, namely, Bhargab Malakar, seeking bail in connection with Hatigaon P.S. Case No. 147/2023 under Sections 395/511/447/419/294/506 of the IPC.

3. It is submitted that by an FIR dated 15.04.2023 lodged by the informant one Alaka Barua it was alleged that five persons came in two vehicles having registration No. AS 01FD 0855 and AS 01 DR 5164 and had tried to break open the gate and enter the apartment in the "Hestia's Court" campus. It is alleged that the accused persons introduced themselves as Anti Corruption personnel and told that they have come to arrest one girl Rabina Boro who is staying as a tenant in one of the flats of the informant in the said campus since 07.04.2023. The accused persons created nuisance by using abusing language and their behavior was suspicious. It was further alleged that they may have come with the intention to commit dacoity or kidnapping. The said FIR was received and registered as Hatigaon P.S. Case No. 147/2023 under Sections 395/511/447/419/294/506 of the IPC.

4. During the course of the investigation, the petitioner was taken into custody on the same day i.e. on 15.04.2023 and since then he has been in custody.

5. The learned counsel appearing for the petitioner submits that the allegation made in the FIR are completely false as there is no intention of the petitioner to attempt commission of any dacoity or kidnapping. The petitioner was in a relationship with one lady namely Rabina Boro. He is a student of B.A. 6th Semester in Pragjyotish College, Guwahati for the Sessions 2022-23 and he

is intending to appear for the examination which will commence from 04.05.2023.

6. It is submitted that the petitioner had proceeded to the said "Hestia's Court" Campus to meet the said lady friend of the petitioner. However, there was some misunderstanding and which resulted in exchange of words between the petitioner and the said lady Rabina Boro. The learned counsel for the petitioner submits that the petitioner is not at all connected with any of the allegations made in the FIR. The petitioner has already been in custody for several days now and therefore, his further custodial detention in connection with the aforesaid case is not necessary. His statement has already been recorded. He will co-operate with the I.O and appear before the I.O. as and when required.

7. In terms of the direction of this Court passed earlier, the learned Addl. PP has produced the case diary. The case diary presented has been perused.

8. From perusal of the case diary, it is seen that the contention made by the learned counsel for the petitioner does not appear to be incorrect. There are no materials which are seen from the case diary that there was any other reason for which the petitioner's further custodial detention is necessary. There are no materials to suggest commission of any dacoity by the petitioner.

9. Accordingly, upon due consideration of the materials and perusal of the case diary and upon hearing of the learned counsels for the parties, this Court is of the view that further custodial detention of the petitioner is not required for

continuance of the investigation at this stage. The investigation has progressed fairly and there are no materials to suggest that release of the petitioner at this stage will hamper the investigation carried on.

10. Therefore, the accused-petitioner, named above, shall be released on bail in connection with the aforementioned case, on furnishing a bail bond of Rs. 30,000/- (Rupees Thirty Thousand) with one local surety of like amount to the satisfaction of the Court of CJM, Kamrup(M), subject, of course, to the following conditions:

(i) That the accused-petitioner shall appear before the investigating officer as and when required;

(ii) That the accused-petitioner shall not hamper or tamper with the investigation in any manner;

(iii) 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 or to any police officer; and

(iv) That the accused-petitioner shall not leave the jurisdiction of the concerned Hatigaon P.S without obtaining prior permission from the concerned Court.

11. Accordingly, the bail application stands disposed of.

12. Return the case diary.

JUDGE

Comparing Assistant