

GAHC010088442023



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

Case No. : Bail Appln./1520/2023

NITYA RANJAN BORKATOKY
S/O NABA KUMAR BORKOTOKY
R/O NIRUPAMA NIWAS, KAHILIPARA,
P.O. DISPUR,
P.S. DISPUR
DIST. KAMRUP (M), ASSAM
PIN-781006

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M SARANIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 03.05.2023

Heard Mr. M Sarania, learned counsel appearing for the accused petitioner as well as Mr. RJ Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Nitya**

Ranjan Borkatoky, has prayed for grant of bail in connection with **Latasil P.S. Case No. 48/2023** under Sections **201/202** of the IPC r/w Sections 25 (1-B)/27/35 of Arms Act.

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

Mr. M Sarania, learned counsel appearing for the accused petitioner submits that the I.O. of the case after completion of investigation produced the accused petitioner before the learned court below by production on police remand. Mr. Sarania further submits that in the remand memo, it is clearly stated that the investigation is almost complete and there is no further need of police remand. Mr. Sarania submits that the accused petitioner is a licensed holder of fire arm being License No.LN04701A7A17D22, dated 22.11.2022 which has been seized by police. Therefore, Mr. Sarania, learned counsel submits that the accused petitioner's bail may be considered favourably.

Mr. RJ Baruah, learned Addl. P.P, raises strong objection against the prayer made by the learned counsel for the accused petitioner in view of the facts and circumstances that appear from the case diary against the accused petitioner.

The FIR reveals the allegation that based on a verbal complaint by the present accused petitioner, the officer –in-charge of Latasil PS conducted an enquiry and during the enquiry, it was found that the statements of the informant and his driver were not matching and from the vehicle of informant, one empty cartridge was found and thereafter in the office of the informant one 32 bore pistol, 2 magazines, one holster and licence etc. were found.

The accused petitioner has been in judicial custody since 12.04.2023, i.e. for 22 days.

On perusal of the case diary and the documents annexed with the petition, it is seen that the accused petitioner is the owner of 0.32 bore pistol. It is further seen that in the report of the I.O. dated 15.04.2023 the I.O. has stated that the investigation is almost complete and there is no further need of police remand custody.

It is further noticed that the accused petitioner has undergone police remand for 3 days vide order, dated 12.04.2023 passed by the learned Additional CJM, Kamrup (M) at Guwahati.

Although the case diary including the statements of witnesses recorded u/s 164 CrPC reveals *prima*

facie case against the accused petitioner, in view of substantial progressive investigation as noted above, further continuation of detention of the accused, in the interest of investigation, is not warranted.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with one surety of like amount to the satisfaction of the **learned C.J.M., Kamrup (M) at Guwahati** 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.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant