

GAHC010103412023



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

Case No. : Bail Appln./1716/2023

JAMIL HOQUE
S/O LATE ABDUL JALIL
A RESIDENT OF VILL- SILAMARI
GOHALIBHANGA, P.O. AND PS GINJIA, DIST. SONITPUR (EARLIER
BISWANATH), ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

26.05.2023

Heard Mr. M.A.I. Hussain, learned counsel for the accused petitioner as well as Mr. R.J. Baruah, learned Addl. P.P., Assam for the State respondent.

By this petition under Section 439 Cr.P.C., the accused/petitioner, namely

Jamil Hoque has prayed for grant of bail in connection **Ginjia P.S. Case No. 39/2023** u/s **120B/447** of the IPC read with Section **25(1-A)** of the Arms Act.

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

Mr. M.A.I. Hussain, learned counsel for the accused petitioner, submits that the accused has been in judicial custody for 45 days despite being innocent. Mr. Hussain further submits that the accused has a poor eye sight and as such, cannot move smoothly without help. Mr. Hussain also submits that no firearm was recovered from his personal possession or from his house premises and therefore, there cannot arise the allegation of rhino poaching.

Opposing the bail application, Mr R.J. Baruah, learned Addl. Public Prosecutor, submits that the accused is not named in the F.I.R. and there is no direct incriminating evidence against him.

The F.I.R. reveals the allegation that on 29.03.2023, a reliable source input was received by police that some miscreants had illegally and stealthily entered into the Kaziranga National Park and hatched a criminal conspiracy to poach rhino for selling its horn at exorbitant price. As per information, a .22 rifle was also recovered. After enquiry, it was found that several miscreants are involved in this conspiracy and to achieve their illegal motive they have already procured arms and ammunitions. It is further alleged that similar rhino poaching had occurred in Nagaon before.

It is noticed that the accused petitioner has been in judicial custody since 11.04.2023, that is, for 46 days.

A perusal of the case diary, it is revealed that one .22 rifle was recovered and seized from the rear side of the house of one Hazarat Ali. The present

accused is suspected of having conspired in rhino poaching along with the co-accused persons from earlier. The investigation is yet to be completed.

Upon consideration of the materials on the case diary, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner, the ongoing investigation into the case is unlikely to be adversely affected.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand)** only with one surety of like amount to the satisfaction of the learned **J.M.F.C., Biswanath** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the investigating officer as and when required;
- 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 either to the investigating officer or to the Court; and
- iii) That the accused petitioner shall refrain from committing any similar offence in future of which he is suspected of commission.

Breach of any 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