

GAHC010115682023



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

Case No. : Bail Appln./1861/2023

KINJAL BARMAN
S/O SRI GOPAL CH. BARMAN
R/O H/NO. 1 LALUNG GAON, LOKHORA, RAMKRISHNA NAGAR,
BETKUCHI UNDER GORCHUK POLICE STATION IN THE DISTRICT OF
KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D TALUKDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 05.06.2023

Heard Mr. D. Talukdar, learned counsel appearing 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,

namely, Sri Kinjal Barman seeking bail in connection with Chandmari P.S. Case No. 164/2023 registered under Section 382 of IPC. The petitioner was arrested on 07.05.2023 and since then he has been in custody.

3. It is submitted by the learned counsel for the petitioner that an FIR dated 06.05.2023 was lodged by the informant, one Smt. Mamta Hazarika, wherein it was alleged that while the informant was walking towards Chandmari Fly over, two unknown person came behind her back on a motorcycle and the person sitting behind in the motorcycle snatched her mobile phone. The Registration No. of the motorcycle was AS 01DJ 1543 and it was requested that legal action be initiated against the two riders. Subsequently when the police located the owner of the motorcycle, he was called to the police station. The informant identified the motor cycle as well as the person riding the motor cycle. Accordingly, case was received and registered as Chandmari P.S. Case No. 164/2023 registered under Section 382 of IPC.

4. This Court by earlier order dated 30.05.2023, had called for the case diary. And Mr. B. B. Gogoi, learned Addl. P.P has produced the case diary before this Court as called for.

5. Case diary produced has been carefully perused. Upon careful perusal of the case diary, it is seen that the motor cycle bearing Registration No. AS 01DJ 1543 belong to the accused person, however no mobile phone belonging to the informant was recovered from the possession of the petitioner. That

apart from the statement of the informant as well as the investigations carried on by the police, the mobile phone of the informant has not been recovered. Perusal of the case dairy otherwise, does not reveal any incriminating materials against the petitioner to suggest that further custodial detention of the petitioner is necessary for the purpose of investigation of the case although no charge-sheet has been filed in the matter as yet. Also no materials are seen from the case dairy to suggest that release of the petitioner on bail at this stage of investigation will hamper the investigation carried on by the police.

6. Upon hearing the learned counsels for the parties and upon due perusal of the case dairy and also taking into account the period of detention undergone by the petitioner, this Court is of the view that the prayer for bail made by the petitioner can be allowed.

7. Accordingly, petitioner is directed to be released on bail forthwith subject to executing a bail bond of Rs.25,000/- (Rupees twenty five thousand) only with one local surety of like amount to the satisfaction of the Chief Judicial Magistrate, Kamrup (M). The bail, granted however, subject to the following conditions:-

- i) The petitioner shall continue to appear before the police and cooperate with the Investigating Officer as and when required, till completion of investigation.

ii) The petitioner shall not change his residence or place of business, 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