

GAHC010131862023



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

Case No. : Bail Appln./2126/2023

LOHIT BORO
S/O LATE MOHENDRA BORO
R/O VILL- BIJAYNAGAR,
P.S. KACHUGAON
IN THE DISTRICT OF KOKRAJHAR, ASSAM, PIN-783350

VERSUS

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

Advocate for the Petitioner : MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 17.07.2023

Heard Mr. S. Nawaz, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This is an application under Section 439 of the Code of Criminal Procedure filed by the petitioner, namely, *Lohit Boro*, who has been detained behind the bar

since 29.05.2023 (since last 49 days) in connection with Kachugaon P.S. Case No. 25/2023 under sections 120(B)/341/384/392/506 of the Indian Penal Code.

The accusation against the present petitioner is that on 28.05.2023 one Md. Mokbul Hussain lodged an FIR before the Officer-in-Charge of Kachugaon Police Station, *inter alia*, alleging that on 13.05.2023 when he was transporting fish from West Bengal in the vehicle bearing Registration No. AS-15-AC-4900, at around, 10.30 PM, the present petitioner accompanied by two other persons stopped the first informant and threatened him by showing khukri and hijacked him and took him on a ride in different roads of Kachugaon. Thereafter, they stopped him at a road in Bijohnagar Village and robbed 50 kgs. of fish and an amount of Rs.12,000/- from the first informant. On receipt of the said FIR, Kachugaon P.S. Case No. 25/2023 has been registered.

The learned counsel for the petitioner submits that the money of Rs.12,000/- which has been recovered from the present petitioner is his own money. The learned counsel for the petitioner also submits that in the instant case, the FIR has been lodged after a delay of 15 days which creates doubt on the prosecutions story.

On the other hand, learned Additional Public Prosecutor submits that the cash amount of Rs.12,000/- has been recovered from the present petitioner and co-accused are yet to be arrested. He also submits that in the investigation has also not yet completed and accordingly opposes the prayer for bail.

I have perused the case diary.

Though, it appears that the co-accused are yet to be arrested, however, in the considered opinion of this Court, continued detention of the present petitioner would not help in any manner to apprehend the co-accused who are still at large. Moreover, considering the period of detention of the present petitioner i.e. 49 days,

further custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of Kachugaon P.S. Case No. 25/2023, if the present petitioner cooperates with the Investigating Officer of the said case.

In view of the above, the petitioner, namely, *Lohit Boro* is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of learned SDJM, Gossaigaon, subject to the condition that the he shall cooperate with the Investigating Officer of Kachugaon P.S. Case No. 25/2023 in fair completion of the investigation of the said case.

With the above observation, this instant bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant