

GAHC010143092023



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

Case No. : Bail Appln./2308/2023

SHANKAR KALITA
S/O ARUN KALITA TOWN NIZARA PUR P.S. FATASIL AMBARI DIST.
KAMRUP (M) ASSAM

VERSUS

THE STATE OF ASSAM
REP .BY THE PP, ASSAM

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.07.2023

Heard Ms. S. G. Baruah, 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, 1973 filed by the petitioner, namely, *Shankar Kalita* who is detained behind the bar since 07.02.2023 (161 days) in connection with Fatasil Ambari Police Station Case

No. 35/2023 corresponding to G.R. Case No. 1018/2023 under Section 379/413 of IPC and Sessions Case No. 84/2023 pending before the Court of Additional Sessions Judge No. 5 Kamrup(M).

The accusation against the present petitioner is that on 07.02.2023, one Mridushman Sharma lodged an FIR before the Officer-in-Charge of Fatasil Ambari Police Station, *inter alia*, alleging that on that day in the evening at about 6.15 p.m. one unknown person had stolen a 4 inch PVC pipe of 20 ft. long along with other building materials and paint of building as was captured in the CCTV footage and later on with the help of local people the thief (*present petitioner*) was captured. It is also alleged that the present petitioner is a habitual thief. On receipt of the said FIR, Fatasil Ambari Police Station Case No. 35/2023 was registered and after completion of the investigation charge-sheet was laid against the present petitioner and the presently the present petitioner is facing trial before the Court of Additional Sessions Judge No. 5 Kamrup(M).

It is submitted by the learned counsel for the petitioner that the petitioner is languishing behind the bar since last 161 days and he is a permanent residents of Nizara Pur Town under Fatasil Ambari Police Station. He shall face trial if he is allowed to be released on bail.

On the other hand, learned Additional Public Prosecutor submits that the stolen property has been recovered from the possession of the present petitioner and the allegation against the present petitioner that he is a habitual offender and charges are also framed against him under Section 413 of IPC.

I have considered the submissions made by learned counsel for both sides.

Considering the fact that the seizure list annexed with the bail application shows that only one 20 ft. long 4 inch PVC pipe was recovered from the possession of the present petitioner and also considering the fact that the present petition has

been detained behind the bar since last 161 days and he is ready to face the trial, his further detention does not appear to be necessary for fair trial of Sessions Case No. 84/2023 pending before the Court of Additional Sessions Judge No. 5 Kamrup(M).

In view of above, the petitioner, namely, *Shankar Kalita*, is hereby allowed to go on bail of Rs.10,000/- (Rupees Ten Thousand) only with one surety of like amount to the satisfaction of learned Sessions Judge, Kamrup(M), subject to the condition:

- (i) That the petitioner shall make himself available before the trial court as and when so required by the trial court,
- (ii) That while on bail the petitioner shall not indulge himself in the offence similar to what he has been charged with in the Sessions Case No. 84/2023.

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

JUDGE

Comparing Assistant