

GAHC010149752023



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

Case No. : Bail Appln./2355/2023

JIABUR RAHMAN @ ZIABUR RAHMAN
S/O- SARFAT ALI @ SARBAT ALI, R/O- VILL- DAULATPUR, (NO. 2
ISLAMPUR, BONGALMARA), P.S. BIHPURIA, P.O. DAULATPUR, DIST.-
LAKHIMPUR, ASSAM, PIN- 787054

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR M H CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

17.07.2023

Heard Mr. M.A.Choudhury, learned Senior counsel, assisted by Mr. M.K. Choudhury, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam.

This is an application under Section 439 of the Code of Criminal Procedure

has been preferred by one, Jiabur Rahman @ Ziabur Rahman, son of Sarfat Ali @ Sarbat Ali, who has been detained behind the bar since 24.06.2023 in connection with Basistha P.S. Case No. 347/2023 under section 120(B)/420/511/489(A)/489(C) of the Indian Penal Code.

The accusation in this case is that on 17.06.2023, one Kapil Pathak, S.I. of Police, of Jorabat Police Outpost lodged an FIR before the Officer-in-Charge of Basistha Police Station *inter-alia*, alleging that on receipt of information through reliable sources that some unknown miscreants are moving in between Jorabat and 8th Mile area for dealing in fake currency, a General Diary Entry was made at Jorabat Outpost vide G.D. Entry No. 414, dated 17.06.2023 and police personnel were detailed for conducting raid operation.

During patrolling duty, at about 2:45 PM, one person along with one black colour VIP bag was noticed at the road side of 8th Mile near Ganesh Mandir. On suspicion the person was detained and his belongings were searched and during his search 49 Bundles of fake Indian Currency Notes amounting to total of 4900 nos. of notes were found and one Ziabur Rahman son of Late Aktar Ali was apprehended and Basistha P.S. Case No. 347/2023 was registered. During the course of investigation the present petitioner was arrested on the basis of the information received from the other co-accused.

Learned Senior counsel for the petitioner has submitted that the name of the present petitioner tallies with the original accused, who was arrested in connection with this case.

However, it is submitted that the present petitioner is an innocent person and not involved in any manner with the alleged offence and no recovery has been made from his possession.

The case diary was called for.

I have perused the case diary.

Learned Additional Public Prosecutor submits that the co-accused who has been arrested in this case has revealed the name of the present petitioner and on the basis of the information collected during investigation the house of the present petitioner was also searched. However, no recovery has been made from the house of the present petitioner.

Learned Additional Public Prosecutor also submits that the investigation of this case is still going on and there are other accused persons who are yet to be apprehended and therefore, he has opposed the grant of bail to the present petitioner.

On the other hand, learned Senior counsel also submits that the petitioner is ready to co-operate and shall abide by any conditions which are imposed if the bail is granted.

Considering the fact that the present petitioner has been detained behind the bar since last 24 days and also considering the fact that nothing has been recovered from his possession and nothing has also been found from his house on search made by the police, continued detention of the present petitioner, in the considered opinion of this Court may not be necessary for fair completion of the investigation of Basistha P.S. Case No. 347/2023, if he co-operates with the Investigating Officer.

In view of above, the petitioner, namely, Jiabur Rahman @ Ziabur Rahman is allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), subject to the following conditions that (i) he shall appear before the Investigating Officer of Basistha P.S. Case No. 347/2023, every week for next two weeks after his release on bail and shall co-operate with the Investigating Officer of Basistha

P.S. Case No. 347/2023 and (ii) he 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 Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.

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

Send back the case diary.

JUDGE

Comparing Assistant