

GAHC010160772023



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

Case No. : Bail Appln./2541/2023

MD. KAMAL HUSSAIN @ TUTAA
S/O LATE ALI AKBAR
R/O VILL- CHAKULIBHARIA KALYANPUR
P.O. CHABOTI
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 26-07-2023

Heard Mr. M. Hoque, learned counsel for the petitioner. Also heard Ms. S.H. Borah, learned Addl. P.P., Assam appearing for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner Md. Kamal Hussain @ Tutaa who has been detained behind the bars since 08.07.2023 for the last 18 days in connection with North Lakhimpur P.S. Case No. 192/2023 under Sections 120B/489A/489C/420/406 of the IPC.

The accusation of this case is that on 20.05.2023 one Biman Gogoi lodged an FIR before the Officer In-charge of North Lakhimpur P.S., inter-alia, alleging that the 4 numbers of accused named in the FIR, namely, Md. Ainul Haque, 2. Md. Ansar Ali, 3. Md. Isadul Alom and 4. Md. Aminur Rahman were involved in the illegal business of Fake Indian Currency Note and Fake Gold and searched the house of Md. Abul Kalam and recovered some fake Indian currency note to the tune of Rs. 39,000/-. On receipt of the said FIR North Lakhimpur P.S. Case No. 192/2023 has been registered.

Learned counsel for the petitioner has submitted that the petitioner has been behind the bars since last 18 days though he is in no way involved with the offence as alleged in the FIR dated 20.05.2023. It is also submitted that the present petitioner has not been named in the said FIR. The learned counsel for the petitioner further submits that one of the named accused in the FIR and two other co-accused have already been granted bail by this Court by order dated 30.06.2023 in Bail Application No. 2221/2023 after perusal of the C.D. on the ground of period of detention undergone by the said accused persons and also considering the progress of investigation. On the other hand the learned Addl. P.P. submits that she oppose the grant of bail to the present petitioner on the ground that the C.D. has not yet been received and that there may be materials against the petitioner in the C.D.

However, case diary of the Lakhimpur P.S. Case No. 192/2023 was called for in connection with B.A. No. 2423/2023 for another co-accused has not arrived and learned counsel for the petitioner has submitted that co-accused persons are already enlarged on bail.

In view of above, considering the submissions made by the learned for the petitioner and

considering the fact that the present petitioner has not been named in the FIR and no seizure has been made from the present petitioner and the fact that the main accused and two other co-accused has already been granted bail by this Court after perusal of the case diary and after observing that there is no other requirement of custodial interrogation of the other co-accused, this Court is of the considered opinion that further custodial interrogation of the present petitioner is also not necessary in connection with North Lakhimpur P.S. Case No. 192/2023 if the present petitioner cooperate with the Investigating Officer of the case.

In view of above, the present petitioner, namely, Md. Kamal Hussain @ Tutta is allowed to go on bail of Rs. 30,000/- (Rupees thirty thousand) with one surety of the like amount to the satisfaction of the learned CJM, North Lakhimpur with the following conditions :-

1. That the petitioner shall cooperate with the investigating officer of the North Lakhimpur P.S. case No. 192/2023.
2. That the 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 or her from disclosing such facts to the Court or to any Police Officer.
3. After obtaining bail the petitioner shall appear before the Investigating Officer of the North Lakhimpur P.S. Case No. 192/2023 every week for a period of 3 (three) weeks from the date of his release or till completion of the investigation which ever is earlier.

With the above observations, this bail application is disposed of.

JUDGE

Comparing Assistant