

GAHC010165912023



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

Case No. : Bail Appln./2731/2023

ZIABUR RAHMAN
S/O LATE AKTAR ALI
R/O VILL- NO. 2 DHARMAPUR P.S. LALUK
P.O. LALUK
DIST. LAKHIMPUR, ASSAM
PIN-784160

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. M H CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 01.09.2023

Heard Mr. M. H. Choudhury, learned senior counsel, assisted by Mr. P. Chakraborty, learned counsel for the petitioner. Also heard Mr. P. S. Lahkar, learned Additional Public Prosecutor for the State.

This is for the second time, the present petitioner, namely, Ziabur Rahman, has approached this Court by filing an application under Section 439 of Code of Criminal

Procedure, 1973, seeking bail. He has been detained behind the bar since last 17.06.2023, in connection with Basistha P. S. Case No. 347/2023 under Section 120B/420/511/489A/489C of the Indian Penal Code.

The accusation against the present petitioner is that on 17.06.2023, one Kapil Pathak, S. I. of Police of Jorabat Police Out Post lodged an FIR before the Officer-in-Charge of Basistha Police Station, *inter-alia*, alleging that on receipt of an information through reliable sources that some unknown miscreants are moving in between Jorabat and 8th Mile area who were dealing in fake currency, a search operation was conducted with the help of Police party and during search operation at 8th Mile Jorabat near Ganesh Mandir, at about 2.45 PM, one person was found loitering with a black colour VIP bag and on suspicion he was detained and his bag was checked and from the VIP carried by the said person, who was later identified as the present petitioner namely, Ziaur Rahman, 49 bundles of 100 Rupees Indian currency notes suspected to be fake currency and other materials including ATM cards, the currency of other nations, cash of Rs. 5,000/- etc. were seized from his possession.

On receipt of the said FIR, Basistha P. S. Case No. 347/2023 was registered.

Learned counsel for the petitioner has submitted that the earlier bail application which was moved by the present petitioner was rejected on 24.07.2023 on the ground that the investigation at that time was in its initial stage and there are incriminating materials against the present petitioner.

Learned counsel for the petitioner has further submitted that since then 39 days have lapsed and the petitioner has been detained behind the bar since last 76 days. Hence, considering the period of detention learned counsel for the petitioner has prayed for allowing the present petitioner to go on bail.

It is also submitted that one another co-accused who was arrested in connection with this case has already been granted bail by this Court on 17.07.2023.

On the other hand, learned Additional Public Prosecutor has placed the case diary of Basistha P. S. Case No. 347/2023 which was called for in connection with this case and has submitted that there are incriminating materials against the present petitioner in the case diary and some more co-accused are yet to be arrested and hence, opposed the grant of bail to the present petitioner.

I have considered the submissions made by learned counsel for both sides and have perused the case diary.

On perusal of the case diary, it appears that the statement of the present appellant was recorded by the Investigating Officer in the month of June, 2023, and thereafter, he was not interrogated by the Investigating Officer. It also appears that otherwise also there has been a considerable progress made in the investigation.

Further, considering the length of period for which the present petitioner has already been detained behind the bar in connection with the instant case, this Court is of considered opinion that his further custodial detention may not be necessary if he co-operates with the Investigating Officer in fair completion of the investigation of this case.

In view of the above, the petitioner, namely, Ziabur Rahma, is hereby allowed to go on bail on furnishing of bail bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup, Metro, Guwahati, subject to the following condition :

1. That the petitioner shall appear before the Investigating Officer of Basistha P. S. Case No. 347/2023, once in a week for next two weeks after his release on bail or till completion of investigation whichever is earlier;
2. The petitioner shall not directly or indirectly make any inducement, threat, or promise to any person who is acquainted with the facts of the case, so as to dissuade him or her from disclosing such facts to the Investigating Officer.

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

Send back the case diary.

JUDGE

Comparing Assistant