

GAHC010189672023



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

Case No. : Bail Appln./3164/2023

TAMO KAYE
S/O LATE TABI KAYE
R/O E-SECTOR, KAYE BUILDING
ITANAGAR, PIN-791111
DIST. PAPUMPARE,
ARUNACHAL PRADESH.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N ANAND

Advocate for the Respondent : SC, WILD LIFE PROTECTION

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 10.10.2023

Heard Mr. N Anand, learned Counsel for the petitioner as well as Mr. I Borthakur, learned counsel appearing on behalf of Mr. P.N Goswami, learned Special Public Prosecutor, Wildlife for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Tamo Kaye** has prayed for grant of bail in connection with Offence No. G/12 /2023-24 dated 20.07.2023 under Sections 9/39/40/44/48 A and 49 B under Section 51 of Wildlife (Protection) Act, 1972.

As per the FIR, dated 20.07.2023 lodged by the complainant ASI Krishna Ray, a Keku snake (Tokay Gecko) was recovered from a scorio vehicle which has been driven by the present petitioner. The seizure was made in presence of local witnesses. Pursuant to the aforesaid seizure, he was produced before the competent magistrate and was taken into custody. It is submitted that the petitioner was arrested on 21.07.2023 and since then, he has been in judicial custody.

The learned counsel for the petitioner submits that as the seized item has already been recovered and nothing more is to be recovered, no further detention of the petitioner is necessary for investigation in the case.

Mr. Borthakur, learned counsel appearing on behalf of Wildlife submits that learned Special Public Prosecutor is not available today before this Court. He further submits that the final offence report in connection with aforesaid case has not been submitted and as such, the prayer for bail of the petitioner may not be considered at this stage.

Having heard learned counsel for the parties and upon perusal of the materials placed before the Court and considering the length of detention of the petitioner who is in judicial custody for 80 days since his date of arrest i.e. on 21.07.2023, this Court is of the view that further detention of the petitioner for investigation in the case is not necessary. There is no objection raised by the respondent that he is a habitual offender or that his release on bail will hamper the investigation carried on in the case.

Accordingly, it is directed that the petitioner, named above shall be released from custody upon furnishing bail bond of **Rs. 50,000/-** with 2(two)local sureties of like amount to the satisfaction of **learned SDJM, Kamrup (M), Guwahati** subject to the following conditions-

- i) That the petitioner shall cooperate with the Investigating Officer till completion of the investigation;
- ii) That the petitioner will not move beyond the jurisdiction without written permission of the Investigating officer; and
- iii) That the petitioner will not change his place of residence without written permission of the investigation officer.

The investigation officer is at liberty to cancel the bail in case of breach of any of the above conditions by the petitioner.

This disposes of the bail application.

JUDGE

Comparing Assistant