

GAHC010189722023



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

Case No. : Bail Appln./3036/2023

SHAMEZ ALI
S/O AKABBAR ALI
R/O BHERAGAON
P.S. BARPETA,
DIST. BARPETA, ASSAM
PIN-781314

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. I H KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

20.09.2023

Heard Mr. K. Islam, learned counsel for the accused and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, **Shamez Ali**, who is languishing in jail hazot since 04.08.2023, in connection with the **Changsari**

P.S. Case No. 259/2023, under Section 407 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Susanta Banik, on 03.08.2023. The essence of allegations made in the FIR is that on 01.08.2023, one Truck bearing registration No. AS-28-AC-0265, with consignment of worth Rs. 8,55,411/- was proceeding from Guwahti to Agartala, driven by one Shamez Ali and from 01.08.2023, the same vehicle is found to be missing and the vehicle was recovered at Silchar in empty condition and the value of the consignment was of Rs. 8,55,411/-.

4. Mr. Islam, learned counsel for the accused submits that the accused was arrested on 04.08.2023, and since then he has been languishing in jail hazoot for last 27 days. Mr. Islam further submits that the punishment prescribed for the offence is up to 7 years and that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Borthakur, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the empty Truck was recovered from the Silchar, but the loaded items are yet to be recovered. Mr. Borthakur further submits that the I.O. has collected sufficient incriminating materials against the accused and the co-accused are yet to be arrested and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary with the assistance of Mr. Borthakur, learned Additional Public Prosecutor.

7. It appears that the accused has been arrested in this case on 04.08.2023 and since then, he has been languishing in jail hazoot. Further, it appears from the case diary that the I.O. has collected sufficient incriminating materials against the accused and the co-accused are yet to be arrested and the consignment loaded in the vehicle also not yet been recovered.

8. In view of above, this Court is of the view that this is not a fit case where the privilege of bail can be extended to the accused.

9. Accordingly, the petition stands dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant