

GAHC010192232023



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

Case No. : Bail Appln./3051/2023

SALMAN HUSSAIN
S/O- ANNESH ALI, BY PROFESSION-DRIVER, RESIDENT OF HOUSE NO.6,
MILAN NAGAR, BHETAPARA, P.O. BELTOLA, P.S. HATIGAON, IN THE
DISTRICT OF KAMRUP (METRO), ASSAM

VERSUS

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

Advocate for the Petitioner : MR. P A AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 12-09-2023

Heard Mr. P. A. Ahmed, learned counsel for the applicant. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor representing the State respondent.

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, Salman Hussain, who has been languishing in jail hazot since 08.08.2023 in connection with Hatigaon P.S. Case No. 451/2022, registered under Section 379 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the applicant, Mr. P. A. Ahmed, that the applicant is innocent and no way involved in the alleged offence as stated in the FIR. He was arrested in connection with this case and forwarded to the custody on 08.08.2022 i.e. 35 days and since then, he is behind the Bar and sent for judicial custody. Thus, custodial interrogation is not necessary here in this case and the accused applicant is also ready to co-operate with I.O. for further investigation of the case if he is enlarged on bail.

On the other hand, Ms. S. H. Bora, learned Additional Public Prosecutor, submits that as per the Case Diary, there is sufficient incriminating material available against the accused applicant. She also submitted that the co-accused has not yet been arrested along with that the stolen articles are yet to be recovered in connection with this case. Therefore, his further custodial interrogation will be necessary for the interest of just and proper investigation.

After hearing the submissions made by the learned Advocates of both sides and

also after perusing the Case Diary, it is seen that the accused/applicant is behind the bar since 08.08.2023, and I am of the view that the I.O. has got ample opportunity to interrogate the accused/applicant in the custody.

Considering the submissions of learned counsel for both sides and also perusing the Case Diary and further considering the length of detention already undergone by the accused/applicant, i.e. 35 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/applicant in the custody and accordingly, further custodial interrogation of the accused/ applicant seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned CJM, Kamrup(M), the accused/applicant, namely, Salman Hussain, be enlarged on bail, subject to the following conditions:

- (i) that the applicant shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the applicant 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 the Court or to any police officer; and
- (iii) that the applicant shall not leave the jurisdiction of the learned CJM, Kamrup(M), without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant