

GAHC010201192023



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

Case No. : Bail Appln./3181/2023

MOHIBAR RAHMAN
S/O LATE MOBARAK ALI
R/O VILL- CHENGA
P.S. TARABARI
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 26.09.2023

Heard Mr. R. Ali, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Mohibar Rahman* who has been detained behind the bar since 30.08.2023 (since last 28 days) in connection

with Basistha P.S. Case No. 347/2023 under Section 120(B)/420/511/489(A)/489(C) of Indian Penal Code corresponding to GR Case No. 4345/2023.

The accusation in this case is that on 17.06.2023, one Kapil Pathak, SI of Police of Jorabat Police Out Post lodged an FIR before Officer-in-Charge of Basistha Police Station, *inter alia*, alleging that on receipt of the information through reliable source that some miscreants dealing with fake currency in between Jorabat and 8th Mile area and on dealing of fake currency, a General Diary Entry was made vide Jorabat Out Post vide GD Entry No. 414 dated 17.06.2023 and Police personnel were detailed for conducting a search operation. During search operation, one person namely, Ziabur Rahman was detained along with 49 bundles of fake Indian currency notes and Basistha P.S. Case No. 347/2023 was registered.

The learned counsel for the petitioner has submitted that the present petitioner is not the named accused in the FIR and nothing was recovered from his possession. He has only been implicated in this case by the co-accused Ziabur Rahman. The learned counsel for the petitioner has also submitted that the main accused of this case Ziabur Rahman has already been granted bail by this Court on 01.09.2023 in Bail Application No. 2731/2023 and another co-accused, namely, Jiabur Rahman @ Ziabur Rahman was also released on bail by this Court on 17.07.2023 in Bail Application No. 2355/2023.

Learned Additional Public Prosecutor has placed the case diary of Basistha P.S. Case No. 347/2023 and has submitted that the investigation was fairly progressed. He has opposed the grant of bail to the present petitioner on the ground that incriminating materials are there against the present petitioner.

I have perused the materials on record including the case diary of Basistha P.S. Case No. 347/2023 as well as considering the submissions made by learned counsel for both sides. Though, there are incriminating materials in the case diary against the present petitioner, however, considering the fact that the main accused of the case are already been released on bail and the petitioner has already undergone detention for last 28 days during which his statement under Section 161 of the Code of Criminal Procedure has also been recorded, this Court is of opinion that further custodial detention of the present petitioner does not appears to be necessary for fair completion of the investigation of Basistha P.S. Case No. 347/2023.

In view of above, the petitioner, namely, *Mohibar Rahman* is allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of Chief Judicial Magistrate, Kamrup(M), subject to the condition that the petitioner shall continue to cooperate in the investigation of Basistha P.S. Case No. 347/2023.

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

Send back the case diary.

JUDGE

Comparing Assistant