

GAHC010208242023



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

Case No. : Bail Appln./3378/2023

BORKIRI TIMUNG @ DILIP TIMUNG
S/O RUPSING TIMUNG,
VILL.- SING ENGLENG GAON, P.S.- KHERONI, SUB- DIVISION- HAMREN,
DIST.- WEST KARBI ANGLONG, ASSAM, PIN- 782486.

VERSUS

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

Advocate for the Petitioner : MR T KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

06.10.2023

Heard Mr. T. Kalita, 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, **Sri Borkiri Timung @ Dilip Timung**, who is languishing in jail hazot, in connection with the **Dokmoka P.S. Case No. 35/2011**, under Section 365 of the IPC, corresponding to G.R. Case No. 613/2011, for granting bail.

3. Mr. Kalita, learned counsel for the accused submits that the accused was charge sheeted along with five others, in connection with the Dokmoka P.S. Case No. 35/2011, to stand trial in the court, under Sections 364[A]/34 of the IPC and in the aforementioned case, the learned court below has issued Non-Bailable Warrant [NBWA] of Arrest against the present accused, as he has been shown as absconder in the aforesaid charge sheet and on the strength of NBWA, issued by the learned court below, the accused was arrested on 29.07.2023, and since then he has been languishing in jail hazot for last 70 days. Mr. Kalita further submits that the accused will face the trial and he will appear before the learned court below on each and every date and therefore, it is contended to allow the petition.

4. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor submits that the case is in the appearance stage and other accused have not yet appeared before the learned court below and as such, the prayer of the accused may be considered, by providing that he will appear each and every date, before the learned court below, on the date fixed.

5. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the scanned copy of the record received from the learned court below.

6. It appears that the case is pending in the appearance stage and vide order dated 22.09.2023, the learned JMFC, Karbi Anglong, Diphu has committed the case to the learned Sessions Judge, Karbi Anglong, Diphu. Further, it appears that after completion of investigation the charge sheet has already been submitted and as such, the question of hampering the investigation or tampering the witness, does not arise. Now, the trial will start and the accused

has to prepare his defence.

7. Having considered the submission of learned counsel for both the parties and also considering the period of detention, i.e. 70 days, this Court is inclined to allow this petition. Accordingly it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Sessions Judge, Karbi Anglong, Diphu**, the accused be enlarged on bail.

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

JUDGE

Comparing Assistant