

GAHC010208312023



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

Case No. : Bail Appln./3261/2023

MUKUNDRA UPADHYAY
S/O SHRI LEKHNATH UPADHYAY
VILL- SAGARPUR
P.S. LALUK
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

29.09.2023

Heard Mr. M. H. Ahmed, learned counsel for the applicant. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This application is filed under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, Mukundra Upadhyay, who has been languishing in jail since 04.08.2023, in connection with ACB P.S. Case No.60/2023 under Section 120(B) of the Indian Penal Code *read with* Section 7(a) of the Prevention of Corruption Act, 1988.

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

It is submitted by the learned counsel for the petitioner, Mr. H. Das, that the accused applicant is behind the bar since 57 days and thus, the I.O. got sufficient opportunity to interrogate him in the custody. He also submitted that nothing has been recovered from his possession and also the main accused person, namely Mizanul Hoque has already been granted bail by the learned Special Judge, Guwahati, Assam. Accordingly, custodial interrogation is not necessary here in this case. Further, the applicant is ready and willing to co-operate with I.O. in further investigation of the case if he is enlarged on bail.

On the other hand, Mr. B. Sharma, learned Additional Public Prosecutor, submits that there are some incriminating materials available in the Case Diary. But, he raised no objection if his bail prayer is considered on the length of detention. He also submitted that the prime accused who was caught red handed by the IO has already been released on bail.

After hearing the submissions made by the learned counsels for both sides, I have perused the Case Diary, as well as the conduct of the accused applicant and also considering the length of detention already undergone by the accused/applicant, i.e. 57 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 Special Judge, Guwahati, Assam, the accused/applicant, namely, Mukundra Upadhyay, 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 Special Judge, Guwahati, Assam, without prior permission.

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

JUDGE

Comparing Assistant