

GAHC010213192023



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

Case No. : Bail Appln./3352/2023

AMINUDDIN AHMED
S/O RAFIQ AHMED,
VILL.- RONGAJAN, P.S.- NORTH LAKHIMPUR, DIST.- LAKHIMPUR, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR. P HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.09.2023

Heard Mr. P. Hazarika, learned counsel for the accused and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure, 1973 is

preferred by accused, namely, Aminuddin Ahmed, who has been languishing in jail hazot since 26.08.2023, in connection with North Lakhimpur P.S. Case No.311/2023, under Section 379 IPC, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Pranjal Bhuyan, Service Manager of M/s Ave Maria Earthmovers on 24.08.2023. The essence of allegation made in the FIR dated 24.08.2023, is that on 21.08.2023 one JCB was stolen by some miscreants from his JCB machine stock at Doimukh of M/s Ave Maria Earthmovers and tracing the GPS signal, they found the location of the said JCB at Joyhing Outpost, under the jurisdiction of North Lakhimpur.

4. Mr. Hazarika, learned counsel for the accused, submits that the accused was arrested on 26.08.2023, and since then he has been languishing in jail hazot for last 27 days and that the stolen JCB has already been recovered and given in the custody of the informant and that the role of the accused, as reflected in the forwarding report dated 26.08.2023, is that he has facilitated escaping of the co-accused from the place of occurrence and that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor has opposed the petition on the ground that the forwarding report reveals complicity of the accused with the offence alleged in the FIR.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

7. It is not in dispute that the accused was arrested on 26.08.2023, and since then he has been languishing in jail hazot. It also appears from the forwarding report dated 26.08.2023, that the stolen JCB has already been recovered. Further, it appears from the forwarding report that the present accused has only facilitated escaping of the other co-accused from the place of occurrence.

8. Having regards to above and also having regards to the nature and gravity of the

offence and balancing the period of detention with that of the nature and gravity of the offence, this Court is inclined to allow this petition. It is provided that on furnishing a bail bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, North Lakhimpur, the accused be enlarged on bail in connection with North Lakhimpur P.S. Case No.311/2023, under Section 379 IPC.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant