

GAHC010213242023



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

Case No. : Bail Appln./3344/2023

ABDUL ALI
S/O- MD. ABUL HOQUE,
PERMANENT R/O- VILLAGE TENGABARI,
P.O- BORJHARONI,
P.S- GINGIA,
DIST- BISWANATH, ASSAM, PIN-784184

VERSUS

THE STATE OF ASSAM
REP. BY SPECIAL PUBLIC PROSECUTOR , WILDLIFE, ASSAM

Advocate for the Petitioner : MR. N BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 10.10.2023

Heard Mr. N. Boruah, learned counsel for the petitioner.
Also heard Mr. I. Borthakur, learned Special Public Prosecutor
for Forest Department.

2. This bail application under Section 439 Cr.P.C has been preferred by the petitioner, Md. Abdul Ali seeking bail as he is arrested in connection with Offence No. CIR/05 of 2019 registered under Sections 9/39(1)(d)/39(3)(a)/39(3)(b)/44/48(A)/52 of WL(P), Act, 1972 read with Section 2(i)(a)/2(i)(b)/3(51 B) of Wildlife (Protection) Act, 1972 (Assam Amendment) Act, 2009.

3. The petitioner was arrested on 07.08.2023 and have been in custody since then.

4. It is alleged in the Offence Report that on 27.06.2019 at about 1.00 p.m an input was received from reliable source that some persons of Biswanath Chariali trying to trade of a TOKAY GECKO which is a schedule-IV animal under the Wildlife (Protection) Act with one supplier from Borjharoni area of Gingia. And on 28.06.2019, two accused persons namely, Md. Furkan Ali and Md. Sahidul Islam were arrested red handed with a live Tokay Gecko while transporting it in a plastic bag by a motorcycle bearing registration No. AS-12-J/0272.

5. The learned counsel for the petitioner submits that the allegations made in the Offence Report are false and he is not connected with any of the offences alleged.

6. It is seen that co-accused namely, Md. Sahidul Islam and Furkan Ali were granted bail by S.D.J.M, Biswanath Chariali. The learned counsel appearing on behalf of the department submits that the investigations are underway but the Offence

Report after completion of the investigation has not yet been filed. Accordingly, considering the progress of the investigation made and the period of detention undergone by the petitioner, this Court is of the view that the prayer for bail made by the petitioner can be granted. Accordingly, this Bail petition is allowed. The petitioner is directed to be released on bail forthwith subject to executing a bail bond of Rs.25,000/- (Rupees twenty five thousand) only with 1 (one) local surety of like amount subject to the satisfaction of the Chief Judicial Magistrate, Biswanath. The bail, granted however, is subjected to the following conditions:-

- i) The petitioner shall continue to appear before the Investigating Officer once a month and cooperate with the Investigating Officer as and when required, till completion of investigation.
- ii) The petitioner shall not change his residence or place of business, without prior written permission from the Court of Chief Judicial Magistrate, Biswanath.
- iii) That the petitioner shall not hamper or tamper with the investigation in any manner; and
- iv) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing

such facts to the Court or to any police officer in connection to this Police Station Case.

7. If any of the conditions are found to be violated by the petitioner then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.

8. With the above direction, the bail petition is accordingly allowed and disposed of.

JUDGE

Comparing Assistant