

GAHC010216402023



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

Case No. : Bail Appln./3401/2023

ALIFUL AHMED
S/O SHAHJAHAN ALI AHMED R/O BECHIMARI P.O. KALGACHIA P.S.
KALGACHIA DIST. BARPETA ASSAM PIN 781319 PHONE NO. 9435106943

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

06.10.2023

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

This application under section 439 of the Code of Criminal

Procedure, 1973 has been filed by the petitioner, namely, Aliful Ahmed, who has been detained behind the bars since 30.08.2023(since last 38 days) in connection with Gobardhana P.S. Case No. 129/2023 under Sections 120B/379/411/468/471/475 of the Indian Penal Code.

The accusation against the present petitioner, in brief, is that on 30.08.2023, one Sri P. Basumatary, S.I. of Police lodged an FIR before the Officer-In-Charge of Gobardhana Police Station, *inter-alia*, stating that the eight numbers of accused persons named in the FIR, including the present petitioner are suspected to have forged 66 numbers of transit challans which were issued in the name of permit holder Mohar Ali Ahmed to destination M/s Sabbir Enterprise and issued by using the said fake transit challans a conspiracy was hatch for stealing stones from forest area. On receipt of the said FIR Gobardhana P.S. Case No. 129/2023 has been registered.

Learned counsel for the petitioner has submitted that the petitioner is in no way involved in the offence alleged in the FIR.

It is also submitted that the petitioner is a registered contractor under Government and he had entered into a deed of agreement with the Government of Assam through the Divisional Forest Officer North Kamrup Division, Rangia on 01.09.2014 for mining of minor materials and stones at Beki River near Bardanga Village and the said contract was valid for a period of 7 years w.e.f. 01.09.2014. It is further submitted that the petitioner was also issued a permit by the office of the Divisional Forest Officer, North Kamrup Division with permit No. 6227245917 dated 18.11.2021 which was also valid till 31.01.2022.

Learned counsel for the petitioner has also submitted that the petitioner had approached this Court by filing a Writ Petition No. 4519/2022 for extension of his mining permit and as per order dated 24.11.2022 passed in WP (C) 4519/2022, the petitioner submitted a representation before the concerned authority for extension of his mining permit. However, it is submitted that some stone mafia hatched a criminal conspiracy to implicate the present petitioner and accordingly, a false and fabricated case has been instituted against the present petitioner.

On the other hand, learned Additional Public Prosecutor, Assam has produced the case diary of Gobardhana P.S. Case No. 129/2023 and has submitted that there are incriminating materials against the present petitioner in the case diary and the Investigating Officer has also seized the fake transit challans.

It is also submitted by learned Additional Public Prosecutor though the co-accused in this case have been enlarged on bail, however, the present petitioner is the main accused in this case and he is the person, who is responsible for making fake transit challans and thereafter, selling those fake transit challans to the other co-accused persons.

Learned Additional Public Prosecutor has also submitted that as the present petitioner by committing the alleged offence has also caused huge revenue loss to the Government of Assam, he should not be allowed to go on bail.

I have considered the rival submissions made by learned counsel for both the sides and have perused the case diary of Gobardhana P.S. Case No. 129/2023. It appears that in the meanwhile, co-accused, namely,

Shahidul Islam @ Gazi, Safikul Islam, Innas Ali and Najrul Islam are already been released on bail.

It also appears that the investigation of this case has fairly progressed and the fake transit challans have also been seized. Though there are sufficient incriminating materials against the present petitioner, namely, Aliful Ahmed in the case diary, however, considering the period of detention already undergone by the present petitioner (38 days) and the progress made in the investigation, his further custodial detention does not appear to be necessary for fair completion of the investigation of the Gobardhana P.S. Case No. 129/2023, if he co-operates with the Investigating Officer.

It also appears that the investigation of this case has fairly progressed and the fake transit challan has also been seized. Though there are sufficient incriminating materials against the present petitioner, namely Aliful Ahmed in the case diary, however, considering the period of detention already undergone by the present petitioner (38 days) and the progress made in the investigation, his further custodial detention does not appear to be necessary for fair completion of the investigation of the Gobardhana P.S. Case No. 129/2023, if he co-operates with the Investigating Officer.

In view of above, the petitioner, namely, Aliful Ahmed is hereby allowed to go on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Baksa with following conditions:-

- (i) the above named petitioner 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 such persons from disclosing such facts to the Investigating Officer;

- (ii) the petitioner shall not leave the territorial jurisdiction of the learned Chief Judicial Magistrate, Baksa without prior permission from him and without an intimation to the Investigating Officer of Gobardhana P.S. Case No. 129/2023 during the pendency of the investigation;
- (iii) the petitioner shall appear before the Investigating Officer once in every week for next 3(three) weeks after his release on bail and shall co-operate with the Investigating Officer in the investigation of the case.

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

Send back the case diary.

JUDGE

Comparing Assistant