

GAHC010217682023



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

Case No. : Bail Appln./3427/2023

MD. NUR HUSSAIN @ NURSEN
S/O- ABDUL SALAM,
R/O- VILLAGE SONAPUR RESERVE GAON,
P.S- BIHPURIA,
DIST- LAKHIMPUR, ASSAM, PIN-784161

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR. M KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 29.09.2023

Heard Mr. J. Hatimuria, learned counsel for the petitioner. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor for the State.

This bail application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Md. Nur Hussain @*

Nursen who has been detained behind the bar since 13.08.2023 in connection with Bihpuria P.S. Case No. 143/2023 under Sections 120(b) / 420 / 406 / 392 / 34 of IPC.

The accusation against the present petitioner in this case is that on 11.08.2023, one Chandan Kumar lodged an FIR before the In-Charge of Banderdewa Police Out Post, *inter alia*, alleging that two person, namely, Raju and Bablu offered to sell gold at a lesser price to the first informant and thereafter called for the first informant near Harmati Railway Station on 11.08.2023 at about 6 AM where the first informant was showing a piece of gold which was found to be fake gold and, thereafter, when the first informant denied to purchase the same, he was assaulted by the said persons and they forcefully took away Rs.3,00,000/- (Rupees Three Lakh) from the first informant. It is also alleged in the FIR that three other persons, namely, 1. Md. Ajibur Rahman, 2. Md. Khajaluddin and 3. Md. Mijanaur Rahman were also involved along with the said two persons named in the FIR. On receipt of the said FIR, Bihpuria P.S. Case No. 143/2023 was registered.

Learned counsel for the petitioner has submitted that the present petitioner is not a named accused in the FIR and he is in no way involved in the FIR, moreover, he has also submitted that the accused persons named in the FIR, namely, 1. Md. Ajibur Rahman, 2. Md. Khajaluddin have already been released on bail by a co-ordinate Bench of this Court by order dated 14.09.2023 in Bail Application No. 3191/2023. It is also submitted that the present petitioner has already been detained behind the bar since last 47 days and therefore, further custodial detention may not be required and hence, it is prayed that they may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor submits that the

case diary which was called for, could not be produced as the same has been called for in another case by the Court of learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur. He has submitted that he had telephonically spoken to the Investigating Officer of the case and the Investigating Officer has informed him that for the sake of fair investigation, further custodial detention may not be necessary of the present petitioner.

In view of the submissions made by learned counsel for the parties and on the basis of the documents which are annexed along with the instant bail application and also considering the period of detention already undergone by the present petitioner, this Court is also of considered opinion that his further custodial detention may not be necessary for fair completion of the investigation of Bihpuria P.S. Case No. 143/2023. Hence, the above named present petitioner is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, subject to the condition that the petitioner shall cooperate in the investigation.

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

JUDGE

Comparing Assistant