

GAHC010231972023



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

Case No. : Bail Appln./3702/2023

MD. MUSTAFA
S/O HAFIZ UDDIN
R/O VILL - NO. 1 GAYAN GAON
P.S. DHING
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

11.10.2023

Heard Ms. S.K. Nargis, learned counsel for the accused and Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Md. Mustafa**, who has been languishing in jail hazot since 14.09.2023, in connection with the **Moirabari P.S. Case No. 197/2023**, under Sections 120(B)/419/420/379/411/34 of the

IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by ASI Jitumoni Das, on 13.09.2023. The essence of allegations made in the FIR is that acting on a tip off the informant and other staff have checked one Dumper, bearing registration No. A-27-C-0751, which was parked in front of HP Petrol Pump, Sagunbahi and found 4055 kgs of suspected Burmese supari, concealed under stones and driver of the said vehicle, Md. Mustafa has failed to produce any document related to the.

4. Ms. Nargis, learned counsel for the accused submits that the accused was arrested on 14.09.2023, and since then he has been languishing in jail hazot for last 27 days. Ms. Nargis further submits that this Court was pleased to release one of the co-accused namely, Najrul Islam on bail, in BA No. 3431/2023, vide order dated 05.10.2023, and therefore, maintaining parity with the said accused it is contended to allow the petition.

5. On the other hand, Mr. Parasar, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the IO has seized the suspected Burmese supari along with the vehicle and also examined some witnesses and achieved substantial progress in the investigation and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused has been arrested in this case on 14.09.2022 and since then, he has been languishing in jail hazot for last 27

days. Further, it appears that one of the co-accused has already been released on bail by this Court, in BA No. 3431/2023, vide order dated 05.10.2023.

8. Having considered above and the stage of investigation and also balancing the period of detention with the nature and gravity of the offence, this Court is of the view that further custodial detention of the accused seems to be unwarranted here in this case. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Morigaon**, the accused be enlarged on bail.

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

10. The case diary be returned.

JUDGE

Comparing Assistant