

GAHC010233952023



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

Case No. : Bail Appln./3746/2023

ASHIMJYOTI CHAKRABORTY
S/O AKSHAY CHAKRABORTY
R/O BANGAON
P.S. BELSOR
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S BORTHAKUR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

17.10.2023

Heard Mr. S. Borthakur, learned counsel for the applicant 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, Ashim Jyoti Chakravarty, who has been languishing in jail hazot, in connection with Chandmari P.S. Case No. 325/2023, under Sections 120(B)/406/420 IPC, since 19.08.2023, for

granting bail.

3. The aforementioned case has been registered on the basis of an FIR, lodged by one Hareswar Kalita of Batahghuli on 18.08.2023 to the effect that through one of his relative, Smti. Santana Deka, he paid a sum of Rs.4,00,000/- to one Anurag Chaliha, a powerful member of BJP, for a post of Grade-III/Grade-IV post in Health Department for his wife Smti. Nisha Barman. But, neither his wife was selected nor the sum he paid was returned. And later on he came to know that Anurag Chaliha and his colleague have collected huge amount of money for different types of job in Assam Government and opened a big market.

4. Mr. Borthakur, learned counsel for the accused submits that the accused was arrested on 19.08.2023 and since then, he has been languishing in jail hazot for last 59 days. Further, Mr. Borthakur submits that the mandatory period of detention for the offences, under which this case has been registered, is 60 days and tomorrow 60 days will over. Mr. Borthakur further submits that vide order dated 29.09.2023, this Court was pleased to dismiss the earlier bail application of the present petitioner being Bail Application No. 3266/2023 after perusing the case diary. But, this petition is being preferred only on the ground of length of detention, not on merit of the case and therefore he is contended to allow this petition.

5. Whereas, Mr. P. Borthakur, learned Additional Public Prosecutor submits that after perusing the case diary this Court was pleased to dismiss the earlier bail application vide order dated 29.09.2023 and that sufficient materials are there against the accused. However, Mr. Borthakur submits, if the Court considers the length of detention then he has nothing to submit.

6. Having heard the submission of learned Advocates of both the sides, I have carefully gone through the petition and the documents placed on record and also perused the order dated 29.09.2023, passed in Bail Application No. 3266/2023.

7. It appears that after perusing the case diary the earlier bail application for the accused was rejected earlier having found sufficient materials against him. But, since the date of his arrest, the accused has already spent 59 days in jail hazot. The maximum period of detention for the offences are

60 days only.

8. Having considered above, and also considering the submission of learned advocates of both sides, this Court is inclined to allow this bail application.

9. It is provided that on furnishing a bond of Rs.50,000/- (Rupees Fifty Thousand) with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (Metro), the accused be enlarged on bail.

10. In terms of the above, the petition stands disposed of.

JUDGE

Comparing Assistant