

GAHC010249922023



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

Case No. : Bail Appln./4018/2023

ABDUL KHALEK
S/O LATE FAJAL HAQUE
R/O TUPAMARI, NAGARBERA
P.S. NAGARBERA
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 17.11.2023

Heard Mr. A. Paramanik, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State of Assam.

This application under section 439 of the Code of Criminal Procedure 1973, has been filed by the petitioner, namely, Abdul Khalek, who has been

shown arrested on 12.10.2023, in connection with Garchuk P. S. Case No. 239/2022 under section 379 added section 411/413/34 of the IPC.

The gist of the accusation in this case is that on 08.08.2022 one Hirakjyoti Bezbaruah had lodged an FIR before the Officer-in-charge of Garchuk Police Station inter-alia, alleging that some of the tower assets as mentioned in the FIR were stolen by some unknown person from ATC side near Garchuk near ISBT.

Learned counsel for the petitioner has submitted that earlier the petitioner was arrested in connection with Sonapur P. S. Case No. 208/2023 on 02.08.2023 and while he was in custody in connection with that case he has been shown arrested in connection with the instant case.

However, he is not in any manner involved in the offence alleged in the FIR dated 08.08.2022. It is further submitted by the learned counsel for the petitioner that though the FIR is dated 08.08.2022, however, he has been shown arrest after one year two months with the said case and nothing has been recovered from his possession.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Garchuk P. S. Case No. 239/2022 and has submitted that the petitioner is a scrap material vender and earlier there were instances of him purchasing the stolen goods and some of the witnesses are yet to be examined. I have considered the submission made by learned counsel for both the side and I have perused the case diary of Garchuk P. S. Case No. 239/2022.

On perusal of the case diary, it appears that the petitioner has been arrested on the basis of his past conduct and on the basis of suspicion.

However, at this stage of the investigation, there is no material in the case diary against him to justify his further detention. Further the petitioner has

already been detained behind the bar since last 36 days and hence, his further detention does not appear to be necessary if he co-operates with the Investigating Officer in the Investigation.

In view of the above, the petitioner, namely, Abdul Khalek, is allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M). With the above information, this instant bail application is accordingly disposed of.

Send back the case diary.

JUDGE

Comparing Assistant