

GAHC010261632022



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

Case No. : Bail Appln./3548/2022

KHALILULLAH ANSARY @ KHALILUR RAHMAN
S/O LATE ABDUL KADIR
VILL- GEHUA CHALCHALI
P.S. RUPOHIHAT
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR E AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 02-01-2023

Heard Mr. E. Ahmed, learned counsel for the accused-petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Khalilullah Ansary @ Khalilur Rahman has prayed for his release on bail in connection with Juria Police Station Case no. 426/2022, registered under Sections 120B/420/409, Indian Penal Code [IPC].

3. The informant in the First Information Report [FIR], lodged on 10.12.2022, has *inter alia* brought allegations against two accused-persons viz. [1] Motiur Rahman and [2] Khalilur Rahman i.e. the accused-petitioner. The accused no. 1, Motiur Rahman is the Principal of Kaliadinga High Madrassa School whereas the accused-petitioner herein is the Assistant Teacher in the said School. In the FIR, allegations of collecting higher fees by the two accused persons from the candidates at the time of filling up of forms have been leveled.

4. Mr. Ahmed, learned counsel for the accused-petitioner has submitted that the Principal of Kaliadinga High Madrassa School is primarily responsible for collection of fees. The accused-petitioner as an Assistant Teacher of the Kaliadinga High Madrassa School had collected the amounts from the candidates as per the instruction of the Principal of the Kaliadinga High Madrassa School. He has further submitted that the Principal of Kaliadinga High Madrassa School has already been extended the benefit of pre-arrest bail under Section 438, CrPC by order dated 21.12.2022 passed in Bail Application no. 1514/2022 by the learned Sessions Court, Nagaon.

5. Mr. Goswami, learned Additional Public Prosecutor who has received the concerned case diary, has submitted, on the basis of the materials available in the case diary, that there are materials corroborating the allegation regarding collecting higher amounts against the stipulated fees by the school authority.

6. The accused-petitioner was arrested and thereafter, produced before the Court of learned Chief Judicial Magistrate, Nagaon on 11.12.2022 and on being so produced, he was remanded to custody. Since 11.12.2022, the accused-petitioner is in custody.

7. Considering the facts that the accused-petitioner is in custody since 11.12.2022; that the co-accused i.e. Motiur Rahman, the Principal of Kaliadinga High Madrassa School has already been released on pre-arrest bail; and that the investigation of the case progressed considerably, this Court is of the view that the further custodial detention of the accused-petitioner appears not necessary for the purpose of carrying out further investigation into the case and if he is released on bail, at this stage of investigation, such release is unlikely to

bring any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

8. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of Rs. 25,000/- with one suitable surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Nagaon, subject to the conditions that :-

[i] the accused-petitioner shall cooperate with the investigation and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;

[ii] the accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge-sheeted in the case.

9. The application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant