

GAHC010261762022



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

Case No. : Bail Appln./3562/2022

DHIRAJ NAMASUDRA
S/O SRI KAMALESWAR NAMUSUDRA
R/O VILL-JALUKBARI, A.E.C. CAMPUS
P.S. JALUKBARI, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 18-01-2023

Heard Mr. B.D. Konwar, learned senior counsel for the accused assisted by Ms. M Zomuanpuui and also heard Mr. BB Gogoi, learned Addl. PP, appearing for the State respondent.

This application under Section 439 Cr.P.C., is preferred by

accused, ***Sri Dhiraj Namasudra***, who has been languishing in jail hajot in connection with ***Anti Corruption Branch (ACB) P.S Case No.56/2022***, under section ***120(B) IPC read with section 7(a) of the Prevention of Corruption Act***, since 09.12.2022, for grant of bail.

The aforementioned case has been registered on the basis of an FIR lodged by Smti. Priyanka Upadhaya Talukdar on 08.12.2022, to the effect that in connection with a case lodged by one Gagan Narzary on 03.12.2022, she was called to the Gohpur PS by SI Dhiraj Namasudra and demanded a sum of Rs.1,00,000/- from her and asked her to pay a sum of Rs.50,000/- on 08.12.2022 and thereafter, allowed her to go home from the PS. Thereafter, again on 03.12.2022 he rang her up and asked her to make payment of the demanded amount and on 07.12.2022 also he called her to the PS and asked her to make payment of the demanded amount.

The learned counsel for the accused submits that the accused was arrested on 08.12.2022, and since then, she has been languishing in jail hajot and that the material part of the investigation is almost over and he is ready to cooperate with the investigating agency and there is no chance of absconding and that he has already been suspended and as such, he unlikely to visit the police station and therefore, it is contended to allow the petition.

On the other hand, Mr. Gogoi, learned Addl. PP has produced the case diary before this Court along with the FSL report and submits that the FSL report gave positive test and supported the case of the prosecution and therefore, Mr. Gogoi opposed the petition. Mr. Gogoi

further submits that as per the report of the IO, investigation is still going on and therefore, it is contended to dismiss the petition.

Having heard the submission of learned Advocate for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of learned Addl. PP.

It appears that the accused is languishing in jail since 08.12.2022. Further it appears from the FSL report dated 20.12.2022, that chemical analysis of the exhibits gave positive test for sodium-ion and carbon methane and the visible spectrometer analysis of exhibits gave positive test for phenethylamine.

It also appears from the report of the IO dated 09.12.2022, that the accused was arrested when he was accepting the bribe amount from the complainant and investigation of the case is still going on and the accused may threaten the complainant in the event of enlarging him on bail.

Having considered above and also the materials collected so far in the case diary and also the stage of investigation, this court is of the view that this is not a fit case where the privilege of bail can be granted to the accused.

Accordingly, the petition stands dismissed at this stage.

The case diary be returned.

JUDGE