

GAHC010262622023



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

Case No. : Bail Appln./4261/2023

HABIBUL ISLAM MOLLAH
S/O ABDUL BATEN MOLLAH,
VILL.- KHOPATI PART- III,
P.O.- HAZIRHAT, P.S.- SUKCHAR,
DIST.- SOUTH SALMARA MANKACHAR, ASSAM, PIN- 783128.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR M Z SHAH

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

11.12.2023

Heard Mr. M.S. Shah, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Habibul Islam Mollah, who has been detained behind the bars since 09.11.2023 (for last 32 days) in connection

with Lakhipur P.S. Case No.325/2023 under Section 379 of the Indian Penal Code.

The gist of the accusation against the petitioner in this case is that on 08.11.2023, one Sirajul Hoque had lodged an FIR before the In-charge of the Dhumergat Police Out Post under Lakhipur Police Station *inter-alia* alleging that on 07.11.2023, the accused was caught red handed while he was trying to escape after stealing the motorcycle bearing Registration No.AS-18-J-2122 belonging to the first informant.

Learned counsel for the petitioner has submitted that the petitioner has been detained behind the bars since last 32 days and since the stolen motorcycle has already been recovered, his custodial detention may not be necessary.

On the other hand, learned Additional Public Prosecutor, Assam has opposed the bail of the present petitioner on the ground that though the stolen motorcycle has been recovered and the investigation has fairly progressed, however, the petitioner was caught red handed while committing the theft of the motorcycle and there is every likelihood that when released on bail, he may commit offence of similar nature.

I have considered the submissions made by the learned counsel for the petitioner as well as the Additional Public Prosecutor and have perused the case diary of Lakhipur P.S. Case No.325/2023.

Though there are incriminating materials against the present petitioner, however, in view of the fact that the petitioner has been detained behind the bars for last 32 days and in view of the fact that the stolen motorcycle has already been recovered and the investigation of Lakhipur P.S. Case No.325/2023 has fairly progressed, this Court is of the considered opinion that further

custodial interrogation of the present petitioner does not appear to be necessary for fair completion of the investigation of Lakhipur P.S. Case No.325/2023 if the petitioner cooperates with the Investigating Officer.

In view of above, the present petitioner, namely, Habibul Islam Mollah is allowed to go on bail of Rs.50,000/- (Rupees fifty thousand) with one surety of the like amount to the satisfaction of learned Chief Judicial Magistrate, Goalpara with following conditions that :-

(i) after getting released on bail, the petitioner shall appear before the Officer-In Charge of Lakhipur P.S. Case No.325/2023 every week for next 4(four) weeks or till the investigation is completed, whichever is earlier;

(ii) the petitioner shall not indulge in similar offence after his release on bail.

With the above observations, this Bail application is hereby disposed of.

JUDGE

Comparing Assistant