

GAHC010263412023



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

Case No. : Bail Appln./4264/2023

MUZAMMIL HAQUE @ MOZAMUDDIN
S/O LT. ABDUL LATIF
VILL- NIZ BISWANATH
NEAR NA BAZAR ISLAMPUR MASJID
P.S. BISWANAH CHARIALI
DIST. BISWANATH, ASSAM
PIN CODE- 784177

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR T N SRINIVASAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.12.2023

Heard Mr. T. N. Srinivasan, learned counsel for the accused and also heard Mr. K. K. Parasar, 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, Muzammil Haque @ Mozamuddin, who has been languishing in jail since 05.11.2023, in connection with ABC P.S. Case No.94/2023, under Section 7(a) PC Act, 1988.
3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by Ripu Chetia on 04.11.2023. The essence of allegation made in the said FIR is that the informant Ripu Chetia has approached the accused who was working in the Circle Office, North Lakhimpur as Lat Mandal for mutation of a plot of land, situated at Nokari Mouza of North Lakhimpur, in his name and then the accused has demanded a sum of Rs.1,00,000/- from him and subsequently he reduced the amount to Rs.50,000/-.
4. Mr. Srinivasan, learned counsel for the accused, submits that the accused was arrested on 05.11.2023, and since then he is behind the bar for last 29 days and that a sum of Rs. 2,000/- was recovered from his possession and that the investigation is already completed and that the accused is a public servant and his further custodial detention may not be required in the interest of investigation and therefore, it is contended to allow this petition.
5. Whereas, Mr. K. K. Parasar, the learned Additional Public Prosecutor has produced the case diary before this Court and submits that the Investigating Officer has collected sufficient incriminating materials in support of the allegation made in the FIR and that the investigation is going on, and therefore, Mr. Parasar has opposed the petition.
6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. K. K. Parasar, learned Additional P.P.
7. Perusal of the case diary indicates that investigation is still going on. It also appears that in his bail objection prayer dated 01.12.2023, the Investigating Officer has clearly stated that if the accused is enlarged on bail there is every possibility that he may threaten or induce the complainant or may otherwise hamper the investigation of the case and he may also tamper the evidence of the witnesses. The case diary also

indicates that investigation is still going on and enlarging the accused on bail at this stage, will misdirect the investigation. The offences are also serious in nature and having regards to above, and also balancing the individual interest of the accused with that of the societal interest, this Court is of the view that it is not a fit case where the privileged of bail can be granted to the accused and accordingly this petition is dismissed.

8. Case diary be returned.

JUDGE

Comparing Assistant