

GAHC010263772022



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

Case No. : Bail Appln./3592/2022

AKASH RABIDAS
S/O SRI MANI RABIDAS
R/O VILL- NORTH GUWAHATI MODHYAMKHANDA
P.S. NORTH GUWAHATI
DIST. KAMRUP (M), ASSAM
PIN-781030

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T DEURI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 09-01-2023

Heard Mr. B. Kalita, learned counsel for the accused-petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973, the

accused-petitioner viz. Sri Akash Rabidas has prayed for his release on bail in connection with Mushalpur Police Station Case no. 101/2022, registered for offences under Sections 120B/420/419/392/406, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and produced before the Court of learned Chief Judicial Magistrate, Mushalpur, Baksa on 12.12.2022 and on being so produced, he was remanded to custody.

4. In the First Information Report [FIR], lodged on 01.11.2022, the informant has alleged that he purchased a motor-cycle by paying due consideration with the assistance of the two accused persons, [i] Mohan Das, and [ii] Naba Das, named in the FIR. But after about a month, four persons came to the residence of the informant and took away the motor-cycle purchased by him.

5. The materials in the case diary, collected during the course of investigation carried out so far, go to indicate that the present accused-petitioner, accompanied by three other persons, had gone to the residence of the informant. The materials in the case diary further go to indicate that the motor-cycle was fraudulently sold to the informant by the accused person, Mohan Das by preparing fabricated documents.

6. It is the case of the accused-petitioner that he had gone to the residence of the informant at the instruction of one Paban Sarma, who is a registered owner of the motor-cycle, which was found in the possession of the informant. Learned counsel for the accused-petitioner has submitted that as the motor-cycle is registered in the name of Sri Paban Sarma and the accused-petitioner had taken away the motor-cycle from the informant, who cannot be regarded as the registered owner, the further detention of the accused-petitioner is not

necessary.

7. Having regard to the facts that the informant is not the registered owner of the motor-cycle; and that one Sri Paban Sarma is the registered owner of the motor-cycle which was taken away from the possession of the informant by the accused-petitioner and considering the period of detention of the accused-petitioner for 28 days since 12.12.2022, this Court is of the considered view that custodial detention of the accused-petitioner for any further period for the purpose of carrying out further investigation appears not necessary and if the accused-petitioner is released on bail, at this stage of investigation, further investigation of the case is not likely to be prejudicially affected, provided the accused-petitioner continues to extend his assistance and cooperation in the further investigation of the case.

8. Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 40,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Mushalpur, Baksa, subject to the following conditions :-

[1] 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;

[2] 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; and

[3] 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.

This application stands disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant