

GAHC010271662023



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

Case No. : Bail Appln./4400/2023

ONKESHWAR GUPTA
S/O RADHE SHYAM GUPTA,
R/O H. NO. 7, NAMGHAR PATH,
MILANPUR, P.S. CHANDMARI
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR B CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

06.12.2023

Heard Mr. K.P. Pathak, learned counsel for the accused and Mr. K.K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal

Procedure, 1973, is preferred by accused namely, **Onkeshwar Gupta**, who has been languishing in jail hazot, in connection with the **Dispur P.S. Case No. 2126/2023**, under Sections 120[B]/ 419/ 420/ 385/ 467/ 471/ 468/ 507 of the IPC read with Sections 65/ 66/ 66[B]/ 66[C]/ 66[D] of the IT Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by Madhurjya Dadhara, Inspector of Police, Crime Branch Guwahati, on 07.11.2023. The essence of allegations made in the FIR is that the informant along with his staff conducted search in the Guwahati City and found existence of illegal tech support call centres at Beltola Bazar, Satyapur Path and at Sixmile, Ananda Nagar and found following persons namely, Aquib Nawaz; Parth Aditya Saikia @ Parthajit Pathak; Syed Tasdique Alam; Divyam Arora; Rimpi Roy; Rajan Sidana; and Debojyoti Deb @ David and other co-accused, who were actively engaged in tech support fraud, concealing their identities and employing various technical tools, including restricted software and they also involved in manipulating and forging documents including electronic documents to facilitate their fraudulent activities.

4. Mr. Pathak, learned counsel for the accused submits that the accused was earlier arrested on 15.09.2023, in connection with Cyber P.S. Case No. 08/2023 and he was granted bail in the aforementioned case on 23.11.2023, in BA No. 4223/2023 and subsequently he was again arrested in connection with the present case on 10.11.2023, and since then he has been languishing in jail hazot. Mr. Pathak further submits that two co-accused have already been enlarged on bail by this Court, vide order dated 28.11.2023, in BA No. 4295/2023 and vide order dated 01.12.2023, in BA No. 4353/2023 and that the present accused is also stands in the same footing and therefore, it is

contended to allow the petition.

5. On the other hand, Mr. Parasar, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the present accused and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused has been arrested in this case on 10.11.2023, and since then, he has been languishing in jail hazot for last 26 days. Further, it appears that vide order dated 28.11.2023, in BA No. 4295/2023 and vide order dated 01.12.2023, in BA No. 4353/2023, two co-accused have already been granted bail, by a coordinate Bench of this Court, without perusing the case diary. It also appears from the case diary that the IO has achieved substantial progress in the investigation.

8. In view of above and balancing the period of detention with the nature and gravity of the offence, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup (M) at Guwahati**, the accused be enlarged on bail.

9. The above privilege is however subject to the following two conditions:-

[i] the accused shall appear before the IO, as and when directed;
and

[ii] the accused shall not leave the jurisdiction of learned **Chief Judicial Magistrate, Kamrup (M) at Guwahati.**

- 10.** In terms of above, this bail application stands disposed of.
- 11.** The case diary be returned.

Comparing Assistant

JUDGE