

GAHC010278972023



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

Case No. : Bail Appln./4523/2023

KAMALESWAR DEKA
S/O RAMESWAR DEKA
R/O VILL- SAPKATA, BARUAPUTA
P.S. MUKALMUA
DIST. NALBARI, ASSAM
CONTACT NO. 9864201606

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR J H SAIKIA

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

21.12.2023

Heard Mr. J.H. Saikia, learned counsel for the petitioner. Also heard Mr. K.K. Parashar, learned Additional Public Prosecutor, Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Sri Kamaleswar Deka, who has been detained

behind the bars since 10.11.2023 in connection with Jalukbari P.S. Case No.661/2023 under Section 120B/407/420 of the Indian Penal Code.

The gist of accusation in this case is that on 09.11.2023, one Sri Haren Barman, had lodged an FIR before the Officer-In-Charge of Jalukbari Police Station, *inter-alia*, alleging that the petitioner who is the driver of the first informant was given Rs.1,50,000/- by the wife of the first informant for releasing vehicle at Satgaon. However, it was informed that some miscreants had snatched away the said money from him at Adabari Bus Stand and the informant suspected the involvement of the present petitioner in misappropriation of the said money. Therefore, the FIR was lodged.

Learned counsel for the petitioner submits that the petitioner is in no way involved in the offence alleged against him in the FIR. It is submitted by learned counsel for the petitioner that on 09.11.2023, when the petitioner reached near Adabari Bus Stand, some miscreants snatched away the money given to the petitioner by the wife of the first informant, Haren Barman. It is further submitted by the learned counsel for the petitioner that, in this regard, the petitioner has also lodged an FIR before the Jalukbari Police Station even before lodging of the FIR against him.

Learned counsel for the petitioner has also submitted that considering the period of detention of the petitioner (i.e. last 41 days), the petitioner may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor, Assam has produced the case diary of Jalukbari P.S. Case No.661/2023 and has submitted that there are incriminating materials to suspect the involvement of the present petitioner in the offence alleged in the FIR.

I have considered the submissions made by the learned counsel for both the sides and have perused the materials on record including the case diary of Jalukbari P.S. Case No.661/2023.

Considering the progress made in the investigation as well as considering the

period of detention already undergone by the petitioner, this Court is of the considered opinion that further custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of Jalukbari P.S. Case No.661/2023.

In view of above, the present petitioner, namely, Sri Kamaleswar Deka, is hereby allowed to go on bail of Rs.30,000/- with one surety of like amount, subject to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (Metro), Guwhati with the following conditions:

- (i) that the petitioner shall co-operate in the investigation;
- (ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer or Police Officer or to any Court.

The instant bail application is accordingly disposed of.

JUDGE

Comparing Assistant