

GAHC010279472023



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

Case No. : Bail Appln./4514/2023

IKRAM HUSSAIN
S/O LT. ABDUL WAHID
VILL- UDMARI
P.S. DOBOKA
DIST. HOJAI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 22.12.2023

- 1.** Heard Mr. M. Hoque, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.

2. This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Ikram Hussain, who has been detained behind the bars since 25.11.2023 (for the last 23 days) in connection with Murajhar P. S. Case No. 238/2023 under section 468/471/379/411 of the IPC.

3. The gist of accusation in this case is that on 29.11.2023, one Arnod Doley, S. I. of Police had lodge an FIR before the Officer-in-Charge of the Murajhar Police Station, *inter-alia*, alleging that while the informant was conducting naka checking duty on 29.11.2023 at Ambari Tiniali, one Bajaj Discover 150 motor bike bearing registration No. AS 21 D3245 was found being driven by the present petitioner, however, it was found that the registration certificate produced by the petitioner does not match with the chassis number as well as the engine number of the said motorcycle which created suspicion that the said motorcycle was a stolen motorcycle. The certificate shown by the present petitioner to the police was also suspected to be fake.

4. Learned counsel for the petitioner has submitted that the petitioner had purchased one second hand motorcycle from one Abdul Rahman on good faith and he has not stolen the same from anyone, and no one except the police has filed any FIR regarding theft of the motorcycle.

5. Learned counsel for the petitioner has also submitted that the petitioner has been detained behind the bars for last 23 days without any fault of his and he is ready to cooperate in the investigation.

6. On the other hand, learned Additional Public Prosecutor has produced the case diary of Murajhar P. S. Case No. 238/2023 and has submitted that the petitioner has failed to show any document regarding the ownership of the

seized motorcycle and therefore, there is a strong suspicion that the same may be a stolen one.

7. Learned Additional Public Prosecutor has also submitted that the Investigating Officer has already found in his investigation that the original owner of the seized motorcycle is some other person and is trying to record the statement of the original owner.

8. I have considered the submissions made by learned counsel for both the sides as well as perused the materials on record including the case diary of Murajhar P. S. Case No. 238/2023.

9. It appears that though the present case was registered only on the basis of suspicion, however, in the investigation some another person has been found to be the owner of the seized motorcycle. However, considering the progress made in the investigation as well as the period of detention already undergone by the present petitioner his further custodial detention does not appear to be necessary for fair completion of the investigation to Murajhar P. S. Case No. 238/2023.

10. Hence, the above-named petitioner is allowed to be released on bail of Rs. 30,000/- (Rupees Thirty Thousand only), with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Hojai subject to the following conditions:

- i. That the petitioner shall cooperate in the investigation;
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to 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.

- 11.** With the above observations, this bail application is hereby disposed of.
- 12.** Send back the case diary

JUDGE

Comparing Assistant