

GAHC010284302023



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

Case No. : Bail Appln./4544/2023

DHANJIT KALITA
S/O ARABINDA KALITA R/O JUNAKI NAGAR SAUKUCHI P.S. GARCHUK
GUWAHATI DIST. KAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 21.12.2023

Heard Mr. B. K. Mahajan, learned counsel for the petitioner. Also heard Mr. R. R. Kausik, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been arrested on 04.12.2023 in connection with Fatasil Ambari P.S. Case No. 303/2023, under Sections 379/413 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Mahajan, that the accused is a 20 year old boy and he was running a mobile shop with second hand mobile handsets and the said mobile handsets were received from one Abhishek and Anil Bhai, who are the owners of a mobile shop situated at Gafar Market, Delhi and he received all those mobile phones through courier and payments were also made online. He is not aware about the theft of any mobile handsets and he only deals with the second hand mobile handset in his shop and not involved in any kind of theft. Further, the accused is a boy of tender age and he is already in custody since 04.12.2023 and considering his length of detention, he may be enlarged on bail. Further, the accused is ready and willing to co-operate with the I.O. in the further investigation of the case if he is

enlarged on bail.

In the context, the learned Additional Public Prosecutor has submitted that total 114 numbers of mobile handsets are already been recovered from the mobile shop of the accused and it is a fact that the accused is running a business of second hand mobile handset and from the statement of the other witnesses also, it is seen that they had the knowledge that the second hand mobile handsets can be purchased from the mobile shop, namely, Mobile Island, which is belong to the present accused/petitioner. The learned Additional Public Prosecutor further submitted that though 114 numbers of mobile handsets were recovered from the possession of the accused, but there is no any note from the I.O. that those were stolen mobile handsets, though it is suspected to be stolen.

I have considered the submissions made by the learned counsels for both sides and also perused the case record as well as the Case Diary produced by the learned Additional Public Prosecutor.

From the Case Diary, it reveals that the I.O. had the suspicion on the accused/petitioner only because he could not furnish any document of those mobile handsets, which were recovered from his possession. However, in this context, the learned counsel for the petitioner had submitted that as the accused/petitioner used to received all those second hand mobile handset through courier, he could not produce any document related to the said mobile handset and he simply used to sell those mobile handset which he received from Delhi from one Abhishek and Anil Bhai and also used to make payment for

the same through online.

In view of above and also considering all aspects of the case, I am of the view that further custodial interrogation of the accused is not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, the accused/petitioner, namely, Shri Dhanjit Kalita, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person 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
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, without prior permission.

In terms of above, this bail application stands disposed of.

Case Diary be returned.

JUDGE

Comparing Assistant