

GAHC010287772023



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

Case No. : Bail Appln./4593/2023

NIZAM ALI
S/O HURMUJ ALI
R/O NO. 2 ISLAMPUR
P.S. BIHPURIA
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 21.12.2023

Heard Mr. S. M. Abdullah P, 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 14.10.2023 in connection with Hatigaon P.S. Case No. 335/2023, under Section 120(B)/511/420/489(A)/489(C) 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. S. M. Abdualh P, that the accused/petitioner is innocent and he is no way involved in the alleged offence. Further he submitted that 5 (five) numbers of accused persons were arrested in connection with this case and out of that, the accused Nos. 1, 2, 3 & 4 are already been granted with the bail by this Court considering the length of detention and other aspects of the case. Accordingly, the case of the present accused/petitioner can also be considered on the same footing and on the ground of parity, he may also be released on bail. He further submitted that the accused is a permanent resident of his addressed locality and there is no chance of absconding if he is enlarged on bail. Rather, he will regularly appear before the Court as and when the date is fixed by the Court. Accordingly, it is prayed for allow the accused/petitioner on bail.

In this context, the learned Additional Public Prosecutor, Mr. Kausik, has submitted that there are sufficient incriminating materials in the Case Diary against the present accused/petitioner along with others. However, it cannot be denied that the case of all the accused persons are on same footing and hence,

the law of parity can be applied for the present accused/petitioner also considering his length of detention.

After hearing the submissions made by the learned counsels for both sides, I have perused the Case Diary and it reveals that there are sufficient incriminating materials in the Case Diary against the accused along with the co-accused persons behind the commission of the offence. Further, it cannot be denied that all the accused persons are seems to be equally involved in the offence. However, considering the fact that all other co-accused are already allowed to go on bail by the Co-ordinate Bench of this Court, I am of the view that on the ground of parity, the bail petition of the present petitioner can also be considered.

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. 50,000/- (Rupees fifty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, the accused/petitioner, namely, Nizam Ali, 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