

GAHC040014822024



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

Case No. : Crl.Petn./189/2024

Bhabesh Tanti
Son of Shri Nadeswar Tanti, resident of Kalakhowa Village, Po and PS Bokakhat,
Golaghat District, Assam

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Adam Tatak, Logsang Yountan, Tanur Gao, Tsering Gyatso

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 05-11-2024

Heard Mr. T. Gyatso, learned counsel for the petitioner. Also heard Ms T. Jini, learned Additional Public Prosecutor for the State.

2. This is an application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2023 praying for alteration and modification of the bail order dated 04.10.2024, passed by this Court in

BA No. 93(AP)/2024.

3. The case of the petitioner is that the accused Shri Ananta Tanti, who was arrested in connection with Session Case No. 08/2019 arising out of Seijosa P.S. Case No. 10/2017 registered under Section 302/34 IPC, was granted bail by this Court by order dated 04.10.2024 and directed to release the accused on execution of bail bond of Rs.20,000/- with 2 surety of like amount, ***one of which should be a resident of Arunachal Pradesh*** with further condition that the accused person shall cooperate and appear before the trial court regularly.

4. Learned counsel for the petitioner submits that the accused is a permanent residence of Assam. He is ready to furnish a bail bond along with a surety with landed property at Assam; however, he is unable to produce the surety who is a resident of Arunachal Pradesh even after expiry of 1(one) month from the date of passing of the said bail order. And hence, prays for alteration and modification of the said bail condition of the bail order dated 04.10.2024.

5. Ms T. Jini, learned Additional Public Prosecutor submits that the accused after obtaining bail was evading the trial proceeding and remained absconding for about 5(five) years due to which he was issued NBWA against him resulting his arrest. And since, the accused person belong to outside the State of Arunachal Pradesh, there is every possibility that he might jump bail and remain absconding again. And hence, the bail condition with one of the sureties to be the resident of

Arunachal Pradesh is fair and reasonable in order to secure his attendance for trial of the case. Learned Additional Public Prosecutor further contended that surety imposed only meant to be a resident of Arunachal Pradesh and not asking for a local surety, either permanent or temporary as contended by the learned counsel for the petitioner.

6. Heard both the learned counsel for the parties and considered their submissions.

7. It appears that the accused person was arrested earlier and then released on bail. However, for his non-appearance, he was again arrested in execution of Non Bailable Arrest Warrant issued against him and since then he has been inside the custody for more than 300 days. Considering that the accused has spent a considerably long period inside the custody after his re-arrest and also considering that even after expiry of 1(one) month, the accused could not execute the bail bond and produce surety from the resident of Arunachal Pradesh which indicates that he is unable to produce the same, I am of the considered view that the prayer of the petitioner can be considered.

8. Accordingly, the accused is directed to be released on execution of bail bond of Rs.50,000/- with 2(two) sureties of like amounts, one of which shall be with proper landed property with a further condition that the accused shall cooperate and appear before the trial court regularly/ as and when called for.

9. With the above observation, the bail order dated 04.10.2024

passed by this Court in BA No.93 (AP)/2024, stands modified as indicated above.

10. Accordingly, this criminal petition stands allowed and disposed of.

JUDGE

Comparing Assistant