

GAHC010018462024



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

Case No. : Bail Appln./273/2024

AZAD HUSSAIN BARBHUIYA
S/O GIASH UDDIN BARBHUIYA,
VILL- TARAPUR PART-IV,
P.O. KHELMA TARAPUR, P.S. SILCHAR, DIST. CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

09.02.2024

Heard Mr. A.M. Barbhuiya, learned counsel for the accused and Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused namely, **Azad Hussain Barbhuiya**, who has been languishing in jail hazot since 04.01.2024, in connection with **Changsari P.S. Case No. 395/2023**, under Section 407 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Ravinder Kumar on 01.12.2023. The essence of allegation made in the aforesaid FIR is that on 18.11.2023, he had despatched consignment of mustered oil to Lanka, through Ali Transport, but the said consignment has not yet been received and he also found the mobile phone of the driver switched off and he suspected that the driver has sold the materials elsewhere.

4. Mr. Barbhuiya, learned counsel for the accused submits that the accused was arrested on 04.01.2024, and since then he has been languishing in jail hazot for last 37 days. Mr. Barbhuiya further submits that this is the second bail application preferred by the accused on the ground of ***length of detention*** and also on the ground that there is delay of 14 days in lodging the FIR. Mr. Barbhuiya also submits that the earlier bail application one was rejected by this Court, vide order dated 23.01.2024, in BA No. 149/2024. Mr. Barbhuiya also submits that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand Mr. Barua, learned Additional Public Prosecutor by producing the case diary before this Court submits that the IO has collected sufficient incriminating materials against the accused. Mr. Barua further submits that after rejection of the earlier bail application, there is in fact no progress of investigation, as the case diary in his office, in connection with some other applications preferred by some co-accused and that the allegations are serious in nature and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the case diary with the assistance of learned Additional Public Prosecutor.

7. That perusal of the case diary reveals that the IO has collected sufficient incriminating materials in support of the allegation made in the FIR. Further, it appears

that after rejection of the earlier bail application on 23.01.2024, there is no change of circumstances in favour of the accused to entertain this second application. Moreover, the offences are serious in nature and investigation is still going on and some of the articles are yet to be recovered and enlarging the accused on bail at this stage will misdirect the investigation.

8. In view of above, this Court is of the view that this is not a fit case where the privilege of bail can be extended to the accused.

9. Accordingly, the petition stands dismissed.

10. The case diary be returned.

JUDGE

Comparing Assistant