

GAHC010020382024



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

Case No. : Bail Appln./373/2024

BRAJEN KALITA
R/O VILL- PACHARIYA UJANTOL UNDER HAJO POLICE STATION,
IN THE DISTRICT OF KAMRUP (RURAL), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B M CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

09.02.2024

Heard Mr. B. M. Choudhury, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Public Prosecutor for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/petitioner, namely, Brajen Kalita, who has been languishing in jail since 17.01.2024 in connection with Hajo P.S. Case No. 19/2024 under Sections 307/325 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner, Mr. Choudhury, that the accused petitioner was arrested in connection with this case on 17.01.2024 and thus, he has been in custody for last 24 days. The case has been registered under Sections 307/325 of IPC, however, from the statement made in the FIR, it is seen that there is no evidence to attract Section 307 of IPC and even if, Section 325 attracts against the petitioner in this case, it is a bailable offence. Accordingly, it is submitted that the further custodial detention of the present accused/petitioner is not necessary and accordingly, prayed to enlarge the accused/petitioner on bail.

On the other hand, Mr. Borthakur, learned Public Prosecutor, submits that the FIR itself reveals that there is no ingredient to attract sections 307 against the accused petitioner. Thus, he raised no objection on the prayer made by the learned counsel for the petitioner.

Considering the submissions of learned counsel for both sides as well as considering the length of detention already undergone by the accused/petitioner, i.e. 24 days, this Court is of the opinion that further custodial detention of the accused/petitioner seems to be 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 Judicial Magistrate, 1st Class, Hajo, Kamrup, the accused/petitioner, namely, Brajen Kalita, be enlarged on bail, subject to the following conditions:

- (i) 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

- (ii) that the petitioner shall not leave the jurisdiction of the learned Judicial Magistrate, 1st Class, Hajo, Kamrup, without prior permission.

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

JUDGE

Comparing Assistant