

GAHC010027262024



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

Case No. : Bail Appln./402/2024

BASHA SHEIKH
R/O 33K ALURBUI L.P. SCHOOL,
P.S. KOKRAJHAR,
DIST. KOKRAJHAR, BTAD, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MD A RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 29.02.2024

Heard Mr. A. Rahman, learned counsel for the accused and Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State respondent.

2. This petition, under Section 439 Cr.P.C. is preferred by the accused, namely, Basha Sheikh, who has been languishing in jail hazot in connection with

Dispur P.S. Case No. 2004/2023, under Sections 457/380 of the IPC, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Jyoti Prasad Kalita on 13.10.2023. The essence of allegation made in the FIR dated 13.10.2023, is that on the previous night, some unknown culprits entered into his house by breaking the window and stolen cash of Rs. 50,000/-, one gold chain (neckless), ear ring, hand ring, six pairs of silk (pat-muga clothes) and one DVD machine.

4. Mr. Rahman, the learned counsel for the accused submits that the accused was arrested on 25.01.2024 and since then, he has been languishing in jail hazot for last 36 days, and that the accused is innocent and no way involved in the offence alleged in the FIR and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Addl. Public Prosecutor has produced the case diary before this Court and submits that a sum of Rs. 1,50,000/-, along with one gold chain was recovered from the possession of the accused. Referring to the forwarding report dated 25.01.2024, Mr. Baruah submits that the accused was identified and arrested on the basis of CCTV footage analysis of that locality and the investigation is going on, and therefore, Mr. Baruah has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. R.J. Baruah, learned Addl. Public Prosecutor.

7. The case diary indicates that the I.O. has achieved some progress in the investigation and he has examined some witnesses and also recovered a sum of

Rs. 1,50,000/- and one gold chain from the possession of the accused.

8. However, in view of the period of detention and also in view of the progress of investigation of this case, further custodial detention of the accused seems not to be warranted in the interest of investigation and therefore, this Court is inclined to allow the petition. It is provided that on furnishing a bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned CJM, Kamrup(M), Guwahati, the accused be enlarged on bail.

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

10. Case diary be returned.

JUDGE

Comparing Assistant