

GAHC010033412024



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

Case No. : Bail Appln./459/2024

TUTU KONWAR
S/OLT. SONESWAR KONWAR,
R/O VILL- BAITHALANGSO, P.S. BAITHALANGSO,
HAMREN, PIN-782450, WEST KARBI ANGLONG, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 19.02.2024

Heard Mr. A.K. Bhuyan, learned counsel for the accused and Ms. A. Begum, learned Addl. Public Prosecutor for the State respondent.

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

Baithalangso P.S. Case No. 12/2024, under Sections 341/387 of the IPC, since 11.02.2024, 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 Debison Terang on 11.02.2024. The essence of allegation made in the FIR dated 11.02.2024, is that the accused had demanded Rs. 5,000/- from the informant Debison Terang for transportation of white stones (quartzite) to Darangamela, Bhutan, even after having valid documents.

4. Mr. Bhuyan, the learned counsel for the accused submits that in the forwarding report, nowhere the I.O. has mentioned about issuance of notice to the accused, before causing his arrest, under Section 41A of the Cr.P.C., and in view of the judgment of the Hon'ble Supreme Court in the case of *Satender Kumar Antil Vs. Central Bureau of Investigation and Anr.*, reported in (2022) 10 SCC 51, the compliance of Section 41A is mandatory and non-compliance of the said provision will entail granting of bail to the accused.

5. In view of the submission of the learned counsel for the accused, the learned Addl. Public Prosecutor who was directed to obtain necessary instruction from the I.O. concerned as to whether the provision of 41A of the Cr.P.C. was complied with or not at the time of causing arrest of the present accused, and at 2 p.m., the learned Addl. Public Prosecutor has apprised this Court that the I.O. has not complied with the said provision.

6. In view of the submission of learned Advocates of both sides and in view of the observation of the Hon'ble Supreme Court in its judgment in the case of *Satender Kumar Antil (supra)*, further considering the length of detention, this Court is inclined to allow this application.

7. 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, Hamren, West Karbi Anglong, the accused, namely, Tutu Konwar, be enlarged on bail.

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

JUDGE

Comparing Assistant