

GAHC010033792024



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

Case No. : Bail Appln./456/2024

MD. BANIS ALI @ RAHUL
S/O JAMUR ALI,
RESIDENT OF VILLAGE TAMULDHI, PS BOKO, DIST KAMRUP R ASSAM
787031

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR J. ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 01.03. 2024

Heard Mr. M. Saikia, learned counsel for the petitioner and Mr. P. Borthakur, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 439 Cr.P.C., filed by the petitioner, namely, Md. Banis Ali @ Rahul, praying for release on regular bail, who was arrested on 31.01.2024 in connection with Paltanbazar P.S. Case No. 23/2024 under Sections 120B/ 328/ 379/ 507 IPC.

The case diary is received and perused. Also perused the materials available on record.

Heard both sides.

It is submitted by Mr. Saikia, learned counsel for the petitioner that the present petitioner is not involved with the alleged offence and all the stolen articles were recovered from the possession of accused Saleha Khatun, not from the possession of the present petitioner. The present petitioner was arrested only on the ground that he was present with the other accused persons at the relevant time. However, the present accused is not named in the FIR and the FIR was lodged after 12 days from the date of alleged occurrence. More so, the present accused person is languishing in jail since 31.01.2024 and considering the length of custody already undergone by the present petitioner, he may be released on bail. He is ready and willing to cooperate with the investigation, if he is enlarged on bail.

In this context, Mr. Borthakur, the learned Addl. PP has submitted that there are sufficient incriminating materials available against the present accused/ petitioner in the case diary and the accused/ petitioner is all along present in the place of occurrence while committing the entire crimes. The statement made by the other accused persons implicated the present accused person and as per their statement, he was very much involved in the alleged offence.

Mr. Borthakur, learned Addl. PP further submits that it is seen from the record that the present accused petitioner was staying with accused Saleha Khatun while the stolen articles were recovered from her. He further submits that as far the note of the I.O. further custodial interrogation is necessary to unearth some other facts of the case.

Considering the submissions of the learned counsel for the parties and considering the incriminating materials available in the case diary and other aspects of the matter, more particularly, considering the note of the I.O. requiring custodial interrogation of the present accused petitioner, I do not find it to be a fit case to enlarge the petitioner on bail at this stage and this court is of the view that custodial interrogation of the petitioner is necessary for the purpose of proper investigation.

In view of the above, the prayer for bail is rejected.

The bail application is dismissed.

Return the case diary.

JUDGE

Comparing Assistant