

GAHC010037302024



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

Case No. : Bail Appln./531/2024

AJIBOR RAHMAN
S/O LATE MUSLEM HAQUE
R/O BARBALUPARA
P.S. MATIA
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 09.04.2024

- 1.** Heard Mr. F. Haque, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Ajibor Rahman*, who has been detained behind the bars since 18.06.2023 (for last 296 days) in connection with

Sessions Case No. 260/2023 under Section 120(B)/201/366/302/34 of the Indian Penal Code which is pending in the Court of learned District and Sessions Judge, Goalpara.

3. The learned counsel for the petitioner has been submitted that the petitioner has been named as an accused in the charge-sheet along with the other co-accused, namely, Hasanur Islam. The learned counsel for the petitioner has submitted that this court has already allowed the co-accused Hasanur Islam to go on bail by its order dated 18.11.2023 passed in Bail Application No. 3354/2023. It is also submitted by the learned counsel for the petitioner that on the earlier occasion this petitioner had approached this court praying for bail and at that time, his prayer for bail was rejected by a Co-ordinate Bench of this court by order dated 18.12.2023 passed in Bail Application No. 4540/2023 wherein it was also observed that prayer for bail of the petitioner may be considered after examination of at least five material witnesses.

4. The learned counsel for the petitioner has also submitted that the petitioner has been detained behind bars for more than 290 days and there are total 70 numbers of listed witnesses in the charge-sheet and which would certainly take much time for the examination of the said witnesses. It is also submitted that when the co-accused has already been released on bail and when the Co-ordinate Bench of this court has observed that after the examination of five prosecution witnesses bail application may be considered, the learned counsel for the petitioner has produced the certified copies of the deposition of PW-3, PW-4 and PW-5 and submits that five prosecution witnesses have already been examined and none of the prosecution witnesses examined so far, has implicated the present petitioner in any manner.

5. I have considered the submissions made by the learned counsel for

both the parties and have been perused the materials on record.

6. It appears that the co-accused Hasanur Islam has already been granted bail by this court. It also appears that while rejecting the bail on earlier occasion, the Co-ordinate Bench of this court has made an observation that the prayer for bail would be considered after examination of five material witnesses.

7. Now, from the materials on record, it appears that five prosecution witnesses have already been examined and they have not made incriminating statement against the present petitioner. It also appears that there are total 70 numbers of prosecution witnesses which would certainly take much longer time for examination.

8. Under such circumstances, this court is of considered opinion that if the petitioner cooperates in his trial, his custodial detention may not be necessary. Hence, in view of the above, the above named petitioner is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of the learned Sessions Judge, Goalpara with following conditions:-

- i. That the petitioner shall cooperate in the trial;
- ii. That the petitioner shall not leave the jurisdiction of trial court without prior leave of the trial court;
- iii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the trial court.
- iv. The learned Sessions Judge, Goalpara may impose any additional conditions for bail during the course of trial if he deems it

fit to do so.

9. With the above observation, this bail application is hereby disposed of.

10. Let the certified copies furnished by the learned counsel for the petitioner be kept as part of the case record.

JUDGE

Comparing Assistant