

GAHC010038632024



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

Case No. : Bail Appln./547/2024

AZAD HUSSAIN BARBHUIYA
S/O GIASH UDDIN BARBHUIYA,
RESIDENT OF VILLAGE TARAPUR PART IV, PO KHELMA TARAPUR, PS
SILCHAR, DIST CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MS A BEGUM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

28.02.2024

Heard Mr. A.M. Barbhuiya, learned counsel for the accused and Mr. R.J. Barua, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Azad Hussain Barbhuiya**, who has been languishing in jail hazot since 04.01.2024, in connection with the **Changsari P.S. Case No. 395/2023**, under Section 407 of the IPC, for granting bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Ravinder Kumar on 01.12.2023. The essence of allegation made in the aforesaid FIR is that on 18.11.2023, he had despatched consignment of mustered oil to Lanka, through Ali Transport, but the said consignment has not yet been received and he also found the mobile phone of the driver switched off and he suspected that the driver has sold the materials elsewhere.

4. Mr. Barbhuiya, learned counsel for the accused submits that the accused was arrested on 04.01.2024, and since then he has been languishing in jail hazot for last 56 days. Mr. Barbhuiya further submits that this is the third bail application preferred by the accused on the ground of length of detention and also on the ground that the mother of the accused has been suffering from heart decease and she has been referred to higher medical centre for better treatment. Mr. Barbhuiya also submits that the prime accused of this case has already been granted bail by the learned Sessions Judge, Kamrup, Amingaon and that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor, has opposed the bail petition and submits that after perusing the case diary this Court has dismissed the earlier two bail applications being BA No. 149/2024 and BA No. 273/2024, preferred by the accused. However, Mr. Barua submits that he has no objection if the Court considers the ailments of the mother of the accused, who is suffering from heart decease and referred to higher medical centre for better treatment.

6. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on

record.

7. It appears that the accused was arrested on 04.01.2024, and since then he has been languishing in jail hazot for last 56 days. Further, it appears that this Court has dismissed the earlier two bail applications being BA No. 149/2024 and BA No. 273/2024, preferred by the accused. But, it appears from the Annexure – 4 that the mother of the accused is suffering from heart decease and she has been referred to higher medical centre for better treatment. But, the learned counsel for the accused has failed to show any document in respect of granting bail to the prime accused of this case by the learned Sessions Judge, Kamrup, Amingaon.

8. However, in the given facts and circumstances on the record, especially the ailments of the mother of the accused, who is suffering from heart decease and referred to higher medical centre for better treatment, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup, Amingaon**, the accused be enlarged on bail.

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

Comparing Assistant

JUDGE