

GAHC010039772024



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

Case No. : Bail Appln./548/2024

KABIN BORO
S/O BHABA BORO R/O BORIGAON, PO CHINIGAON P.S GORESWAR DIST
BAKSA, ASSAM. CHANDAN GOGOI PATH, BORAGAON, C/O DIPENDRA
PATOWARI PS GARCHUK DIST KAMRU, (M), ASSAM.

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

28.02.2024

Heard Mr. A.K. Azad, 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, **Kabin Boro**, who has been languishing in jail hazot since 20.02.2024, in connection with the **Garchuk P.S. Case No. 61/2024**, under Sections 353/294/323/34 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by

LFM Bhigu Dutta, on 19.02.2024. The essence of allegation made in the FIR is that on that day at about 12:10 am, while he was proceeding to GMC dumping ground, along with fire brigade team, for putting off fire, then one Kabin Boro and Ratan Boro obstructed them in discharging their official duty and entered into altercation and scolded them with abusive languages.

4. Mr. Azad, learned counsel for the accused submits that the accused person was arrested on 20.02.2024, and since then he has been languishing in jail hazot for last 8 days. Mr. Azad further submits that while causing arrest of the accused by the IO, has not complied with the provision of Section 41(A) Cr.P.C. 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 has prayed for calling the case diary, as the name of the accused is specifically mentioned therein.

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 and also perused the forwarding report dated 20.02.2024.

7. It appears that the accused person was arrested on 20.02.2024, and since then he has been languishing in jail hazot for last 8 days. Further, after perusing the forwarding report this Court is unable to derive its satisfaction that while causing arrest of the accused, the IO has complied with the provision of Section 41(A) Cr.P.C., as mandated by Hon'ble Supreme Court in the case of **Arnesh Kumar vs. The State of Bihar**, reported in **(2014) 8 SCC 273** and in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Anr.**, reported in **2022 LiveLaw (SC) 577**.

8. Considering above and also balancing the period of detention with the nature and gravity of the offence, 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 [M] at Guwahati**, the accused be enlarged on bail.

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

Comparing Assistant

JUDGE