

GAHC010041082024



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

Case No. : Bail Appln./551/2024

HIKMAT ALI
AGED ABOUT 50 YEARS SON OF FRARMAN ALI RESIDENT OF
PAKHIMARIA GAON POLICE STATION NAGAON SADAR DISTRICT
NAGAON ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. I U CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

04.03.2024

Heard Mr. A. Ahmed, 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, **Hikmat Ali**, who has been languishing in jail hazot in connection with the **Nagaon Sadar P.S. Case No. 135/2024**, under Sections 120(B)/ 420/ 406/ 384/ 506 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Monjyoti Saikia, on 15.02.2024. The essence of allegations made in the FIR is that on 29.11.2019, she has mortgaged her Tractor, bearing registration No. AS-21-C-8113, to one Mr. Hikmat Ali, for a sum of Rs. 2,00,000/- and on 18.11.2020, she has returned a sum of Rs. 4,30,000/- including the loan amount, but in spite of receiving the same the accused has not been returning the Tractor to her and also threatened to kill her.

4. Mr. Ahmed, learned counsel for the accused submits that the accused was arrested on 17.02.2024, and since then he has been languishing in jail hazot for last 17 days. Mr. Ahmed further submits that the occurrence took place in the year 2019, but the FIR has been registered only in the year 2024 and that during the investigation the IO has seized the Tractor. Mr. Ahmed also submits that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Barua, learned Additional Public Prosecutor submits that though the case diary was called for, but the same has not yet been received.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record.

7. It appears that the accused was arrested on 17.02.2024, and since then he has been languishing in jail hazot for last 17 days. Further, it appears that the IO has seized the aforesaid Tractor.

8. Having considered above and also considering the nature and gravity offence and balancing the same with the period of detention, this Court is of the view that further custodial detention of the accused may not be warranted in the interest of investigation.

9. 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, Nagaon**, the accused be enlarged on bail.

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

11. The case diary be returned.

JUDGE

Comparing Assistant