

GAHC010049322024



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

Case No. : Bail Appln./706/2024

NAKUL MALLICK
S/O ANRENDRA MALLICK, R/O VILL- KAULI, P.S.-TAMULPUR, DIST-
BAKSA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. FIRUZ KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 27.03.2024

Heard Mr. A. Khan, learned counsel appearing on behalf of Mr. F. Khan, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been arrested in connection with Sessions Case No. 64/2023, arising out of Rangia P.S. Case No. 1164/2021, under Sections 450/376(2)(n)/506 of the Indian Penal Code.

Scanned copy of the case record has been received. Perused the same. Heard both sides.

It is submitted by Mr. A. Khan, learned counsel appearing on behalf of the petitioner, that false and concocted case is lodged against the present accused/petitioner only with the intention not to return back the money which the husband of the informant took from the accused/petitioner during the treatment of his brother-in-law. Further he submitted that as per the allegation, the incident took place in the month of November, 2020 and the present F.I.R. was lodged only after 11 months of the said occurrence. He also submitted that the entire allegation is based on some photographical evidence and the F.I.R. was also lodged when the photographs of the present informant got viral by the accused/ petitioner in mobile or in some various Whatsapp Groups. But, surprisingly, the I.O. did not seize the mobile handset of the present accused/petitioner nor the photographs were produced by the informant before the police during investigation. In the same time, the case has already been Charge-Sheeted and the evidence of the victim is also recorded along with one another witness and thus, there is no chance of any hampering or tampering with the evidence of the victim. The accused/petitioner is behind the bar since 30.09.2023 and hence, considering his length of detention also, he may be

enlarged on bail.

In this context, Mr. K. K. Parasar, learned Additional Public Prosecutor, has submitted that very serious allegation has been brought in the F.I.R. as well as in the evidence of the witnesses while adducing before the Court. Out of 8 (eight) numbers of witnesses, only 2 (two) witnesses have been examined and hence, considering the nature of the offence, the present accused/petitioner should not be released on bail only considering the length of detention.

After hearing the submissions made by the learned counsel for both sides and also considering the entire facts and circumstances of this case, it is seen that except the victim there is no other eye witness of this case and the evidence of the victim is also recorded by the learned Court below and thus, the question of hampering or tampering with the evidence of the victim does not arise at this stage.

In view of above and also considering the length of detention already undergone by the accused/petitioner, I find that further custodial detention of the accused/petitioner seems to be not necessary here in this case and accordingly, I find it a fit case to allow the accused to go on bail.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Additional Sessions Judge, Rangia, the accused/petitioner, namely, Shri Nakul Mallick, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall appear before the learned Court below as and when the date is fixed;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Additional Sessions Judge, Rangia, without prior permission.

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

JUDGE

Comparing Assistant