

GAHC010050272024



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

Case No. : Bail Appln./744/2024

BINARAM BASUMATARY
S/O SRI PRABIN KUMAR BASUMATARY
R/O H/NO. 16, PO. LOKHRA
P.S. BASISTHA
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. R CHETRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 03.04.2024

- 1)** Heard Mr. R. Chetri, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.
- 2)** This application under Section 439 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Binaram Basumatary who has been detained behind the bar since 09.02.2024 (for the last 55 days) in connection with Basistha P. S. Case No. 82/2024 under Section 379/401 of the Indian Penal Code.

3) The gist of the accusation against the present petitioner in this case is that on 09.02.2024 one Osman Goni of Basistha Police Station had lodged an FIR before the Officer-In-Charge of Basistha Police Station, *inter-alia*, alleging that one scooty without number plate was recovered from the possession of the present petitioner and one Mridul Boro. During interrogation they have admitted that they had stolen the scooty from the Garchuk area. The lock of the said scooty was found to be broken and some other instruments which may be used in theft were found.

4) Learned counsel for the petitioner has submitted that no owner of the scooty has lodged the FIR against the present petitioner.

5) It is also submitted by the learned counsel for the petitioner that the petitioner has been detained behind the bar for the last 55 days and considering the period of detention already undergone he may be allowed to go on bail.

6) On the other hand, learned Additional Public Prosecutor has produced the case diary of Basistha P. S. Case No. 82/2024 and has opposed the grant of bail to the present petitioner on the ground that the petitioner and the co-accused are veteran vehicle lifter and the owner of the seized scooty is yet to be found and there are several incriminating materials which are used in steeling the cars and bikes were found from the possession of the present petitioner.

7) I have considered the submission made by learned counsel for both the sides and have perused the materials on record including the case diary of Basistha P. S. Case No. 82/2024.

8) Though, there are incriminating materials against the present petitioner, however, considering the period of detention already undergone (55 days) by the petitioner, further custodial detention of the petitioner does not appear to be necessary for completion of the Basistha P. S. Case No. 82/2024.

9) In view of the above, the petitioner, namely, Binaram Basumatary is hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) with the following conditions:

- i. That the petitioner shall cooperate in the investigation.
- ii. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

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

JUDGE

Comparing Assistant