

GAHC010058762024



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

Case No. : Bail Appln./852/2024

AWANISH DINESH MISRA
S/O DINESH KUMAR MISRA
PERMANENT RESIDENT OF SECTOR RZ-2CA, GALI NO. 1,
DURGAPARK, NARPUR,
P.S. MAYAPURI, SOUTH DELHI,
PRESENTLY WORK AT TCI EXPRESS COURIER SERVICE, SITUATED AT
BETKUCHI, LOKHRA,
GUWAHATI-781034, KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR G BORDOLOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 03.04.2024

Heard Mr. G. Bordoloi, learned counsel for the accused and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. This petition, under Section 439 Cr.P.C. is preferred by the accused, namely, Awanish Dinesh Misra, who has been languishing in jail hazot in connection with Hatigaon P.S. Case No. 27/2024, under Sections 420/406 of the IPC, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by ASI Dhrubajyoti Sharma on 19.02.2024. The essence of allegation made in the FIR dated 19.02.2024, is that in connection with GD Entry No. 26/2024, dated 17.02.2024, he has carried out investigation and on checking IMEI number of mobile phone, apprehended one Samrat Roy and brought him to the police station and during interrogation, he disclosed that he has handed over the stolen Honda Generator to an organization namely, TCI Courier Express.

4. It is to be noted here that the GD Entry No. 26/2024, dated 17.02.2024, has been recorded on the basis of one complaint lodged by one Jitu Deugharia, on 17.02.2024, wherein it is alleged that one individual took the complainant's Honda Generator Model No. 70IS, worth of Rs. 2,50,000/-, for Rs. 2,500/- per day on rental basis and the generator was collected from Beltola Tiniali and delivered to Cafe at Zoo Road Tiniali. Thereafter, the complainant having visited the place, found that the person in question had deceitfully absconded with the equipment.

5. Mr. Bordoloi, the 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 46 days. It is further submitted that the accused is an employee of TCI Courier Express and he is no way involved with the offence alleged in the FIR, and that the generator has already been recovered and seized by police and one of the co-accused has already been enlarged on bail by this Court, vide

order dated 11.03.2024 in Bail Appln. No. 678/2024. It is further submitted that the accused was granted bail on the ground that while causing arrest of the accused, provision of Section 41A of the Cr.P.C. has not been complied with by the I.O. and the present accused is also forwarded vide the same forwarding report dated 20.02.2024 and the said provision has also not been complied with in the case of the present accused and therefore, it is contended to allow the petition.

6. On the other hand, Mr. B. Sarma, learned Addl. Public Prosecutor has opposed the petition on the ground that the present accused may not stand in the same footing with that of the accused in Bail Appln. No. 678/2024.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record.

8. It appears that the accused was arrested on 17.02.2024 and since then, he has been languishing in jail hazot for last 46 days. Further, it appears that he was forwarded to jail hazot, vide forwarding report dated 20.02.2024, vide which one co-accused, namely, Samrat Roy was also arrested and forwarded to the jail hazot and the same co-accused has already been granted bail by this Court, vide order dated 11.03.2024 in Bail Appln. No. 678/2024, on the ground that while causing arrest, the I.O. has not complied with the provision of Section 41A of the Cr.P.C. Further, it appears that the generator has already been recovered and seized by police.

9. Under the aforesaid facts and circumstances, further custodial detention of the accused seems to be not warranted here in this case and therefore, this Court is inclined to allow the petition. It is provided that on furnishing a bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned CJM, Kamrup(M), the accused be enlarged on bail.

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

JUDGE

Comparing Assistant