

GAHC010062602024



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

Case No. : Bail Appln./938/2024

MD. BANIS ALI @ RAHUL
SON OF JUMUR ALI, R/O VILL- TAMULDHI, PS BOKO, DISTRICT KAMRUP,
ASSAM, PIN 787031

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR MINTU SAIKIA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

09.04.2024

Heard Mr. M. Saikia, learned counsel of the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor representing the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by the accused/petitioner, namely, Md. Banis Ali @ Rahul, who has been languishing in jail hazot since 31.01.2024 in connection with Paltanbazar P. S. Case No.23/2024 registered under Sections 120(b)/328/379/507 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner, Mr. Saikia that the accused/petitioner is behind the bar for the last 67 days i.e. beyond his statutory period and accordingly, he is entitle for default bail.

On the other hand, Mr. Borthakur, learned Public Prosecutor, has submitted that it is a fact that he is custody since 31.01.2024 and till date the IO has not yet filed the charge-sheet. Accordingly, he raised no objection in allowing the prayer made on behalf of the accused/petitioner considering the fact that he has completed his statutory period.

After hearing the submissions of learned counsel of both the sides, it is seen that in spite of lapse of statutory period, the investigating authority is not in a position to file Charge-Sheet against the accused. The accused has been languishing in jail custody for the last 67 days and till then, failed to furnish the

Charge-Sheet and accordingly, I find that the present accused/petitioner is entitled to default bail and accordingly, the accused, namely, Md. Banis Ali @ Rahul is allowed to go on bail on furnishing a bail bond of Rs.20,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati, in connection with in connection with Paltanbazar P.S. Case No.23/2024 registered under Sections 120(b)/328/379/507 of the Indian Penal Code.

The above privilege is, however, subject to the following conditions:-

- (1) The petitioner shall co-operate in the investigation as and when called/summoned for the investigation;
- (2) The petitioner shall not hamper/tamper with the evidence of the prosecution witnesses or the investigating agency; and
- (3) The petitioner shall not leave the territorial jurisdiction of learned Chief Judicial Magistrate, Kamrup (M), Guwahati, without prior permission.

In view of the above, this Bail application stands disposed of.

JUDGE

Comparing Assistant