

GAHC010064202024



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

Case No. : Bail Appln./922/2024

KHAIRUL ISLAM
S/O SUKUR ALI
R/O VILL- RESERVE GAON
P.S. BIHPURIA
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. N HASAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

09.04.2024

Heard Mr. N. Hasan, 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, Khairul Islam, who has been languishing in jail hazot since 10.03.2024 in connection with Bihpuria P. S. Case No.40/2024 under Sections 120(B)/ 406/ 420/ 489-B/ 489-C of Indian Penal Code (Corresponding to GR Case No. 153/2024).

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Hasan that the accused/petitioner is innocent and he is no way involved in the alleged offence as stated in the FIR. He also submits that nothing has been recovered from the possession of the accused/petitioner during the investigation as well as the accused/petitioner was arrested merely on suspicion in connection with this case. However, it is seen that the accused/petitioner is behind the bar since 10.03.2024 and thus, he is in custody for last 32 days and accordingly, considering the length of detention already undergone by the accused/petitioner, he may be enlarged on bail as the I.O. has got sufficient time for his custodial interrogation. Further, the accused/petitioner is still ready and willing to co-operate with the investigation of the case, as and when his corroboration will be required.

On the other hand, Mr. Borthakur, learned Public Prosecutor, has submitted that though nothing has been recovered from the possession of the accused/petitioner but in his written statement made under Section 161 of Cr. P. C., he admitted that he had cheated an amount of Rs.5 (five) lakhs and 3(three) lakhs respectively from one army personal and one other person. He also submitted that this kind of offences is rampantly going on especially in Bihpuria area,

Lakhimpur and the IO made a search operation in the house of one Bilal Hussain and Kurban Ali only after getting the specific information. Thus, he raised objection in allowing the accused/petitioner to go on bail.

In this context, Mr. Hasan, learned counsel for the petitioner has submitted that even after interrogating the accused/petitioner for 30 days, the police could not find any victim who has been cheated by him and thus, the Sections 420 and 489-B of IPC also does not attract against the accused/petitioner. Thus, considering the length of detention already undergone by the accused/petitioner, he may be enlarged on bail.

Considering the submissions of learned counsels for both sides, I have perused the Case Diary which reveals that nothing has been recovered from the possession of the accused/petitioner. However, it is seen from the Case Diary that the accused/petitioner is associated with the other co-accused person, but, it cannot be denied that he is custody for more than 32 days. Hence, considering the length of detention undergone by the accused/petitioner i.e. 32 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

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 Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, the accused/petitioner, namely, Khairul Islam, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (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 Chief Judicial

Magistrate, Lakhimpur, North Lakhimpur, without prior permission.

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

JUDGE

Comparing Assistant