

GAHC010075582024



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

Case No. : Bail Appln./1087/2024

AKABBAR ALI
S/O LATE ABED ALI
R/O JORSHIMULIGOSPUTA
DIST. KAMRUP, ASSAM
PIN-781137

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N DUBEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 09.04.2024

Heard Mr. N. Dubey, learned counsel for the petitioner. Also heard Mr. P. Borthakur, 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/petitioners, who have been arrested in connection with Dharamtul P.S. Case No. 08/2024, under Section 395 of the Indian Penal Code.

It is submitted by Mr. N. Dubey, learned counsel for the petitioner, that the accused/petitioner is innocent and he is not involved in the hijacking of the truck or unloading of the theft articles. However, it is a fact that on the night of incident, one unknown person came to his residence and offered him to sell some areca nuts and gave some samples. Accordingly, he received those samples of areca nuts on good faith. However, later on, he came to know that those areca nuts were alleged to be stolen one. He is petty businessman and deals with areca nuts, but he is no way involved in the alleged offence. However, he is in custody since 01.04.2023 and thus, the got ample opportunity to interrogate the present accused/petitioner keeping him in custody.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that a very serious allegation of hijacking of truck along with the allegation of theft is brought against the present accused/petitioner. Further he submitted that there are sufficient incriminating materials available in the Case Diary against the present accused/petitioner showing his involvement in the alleged offence. The value of the stolen articles is around Rs. 37,80,000/- and the investigation is still under progress and out of 15,000 Kgs. of areca nuts, only around 5,000 Kgs. of areca nuts are being seized till date and thus, the huge amount of the stolen articles are yet to be recovered/seized by police.

Further he submitted that from the Case Diary, it reveals that 18 numbers of bags of areca nuts weighing 1612 Kgs. were seized from the possession of the present accused/petitioner which were directly unloaded after hijacking of the truck and thus, he cannot be said to be a *bona fide* purchaser of the areca nuts.

After hearing the submissions made by the learned counsels for both sides and also considering the entire aspects of the case as well as the materials available in the Case Diary, it is seen that the present accused/petitioner cannot be held to be a *bona fide* purchaser of the said areca nuts and hence, I find that further custodial interrogation may be required to unearth some other facts involved in the case and therefore, I do not find it a fit case to extend the privilege of bail to the accused/ petitioner at this stage and accordingly, the same stands rejected.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant