

GAHC010075622024



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

Case No. : Bail Appln./1069/2024

KAUSHAL AGARWALA
S/O LATE PAWAN KR. AGARWALA
R/O VILL- BIJOYNAGAR, NEAR JAIN TEMPLE, GUWAHATI, P.S.
PALASHBARI,
P.O. BIJOYNAGAR,
DIST. KAMRUP (R), ASSAM-781122,
PH NO. 8822800043-7002318191

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 09.04.2024

Heard Mr. B. D. Konwar, learned Senior Counsel assisted by Mr. R. Saloi, 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 (GR No. 168/2024).

It is submitted by B. D. Konwar, learned Senior Counsel for the petitioner that the accused/petitioner is a businessman and he is the proprietor of M/S Radheshyam Traders and run his business relating to dry areca nuts from his own residential premises and he has been granted with NOC on 16.05.2023 from the 25 No. Uparhali Gaon Panchayat, Rampur Development Block, to run the business. More so, the accused/petitioner has enrolled his name in Indira Gandhi National Open University and present he is pursuing his Bachelor Degree of Commerce. It is stated that his examinations is scheduled to be commenced from the month of June, 2024. Further he submitted that the present accused/petitioner is a *bona fide* purchaser of areca nuts and he made all the payment through bank transactions and no money has been paid through cash. It is a fact that he purchased some areca nuts and was not aware of the fact

that those were the stolen goods and he made all the payment only through bank. Further, he has not criminal antecedent and he was doing his business of areca nuts as he is the only bread earner of his entire family. More so, he was arrested on suspicion in connection with this case and since 19.03.2024, the accused/ petitioner is behind the bar and thus, the I.O. got ample opportunity for his custodial interrogation. Accordingly, it is submitted that considering his length of detention, the accused/petitioner may be enlarge on bail. He will fully co-operate with the I.O. in the further investigation of this case if the granted with the privilege of bail.

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. 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 because of existence of such kind of purchaser, such kind of crime is going on and accordingly, he submitted that the length of detention cannot be the only ground for consideration of bail as the custodial interrogation may be necessary to unearth some facts of the case.

After hearing the submissions made by the learned counsels for both sides and also considering the materials available in the Case Diary, it is seen that the present accused/ petitioner is claimed to be the *bona fide* purchaser of the

areca nuts and there is no materials in the Case Diary that he purchased the areca nuts from the hijackers or he was aware about the theft of areca nuts, which he purchased from the theft goods. Further it is seen that all the transactions have been made through bank.

Thus, considering the above aspects of the case, viz-a-viz the length of detention already undergone by the accused/ petitioner, I find that further custodial interrogation of the accused/petitioner seems to be not necessary here in this case and accordingly, I find it a fit case to extend the privilege of bail to the present accused/petitioner.

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, Morigaon, the accused/petitioner, namely, Shri Kaushal Agarwala, 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, Morigaon, without prior permission.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant