

GAHC010080852024



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

Case No. : Bail Appln./1162/2024

MD. JAKIR HUSSAIN ALI
S/O LATE YUSUF ALI
R/O VILL- NAKARI NORTH LAKHIMPUR, WARD NO. 1, P.S. NORTH
LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

30.04.2024

Heard Mr. K. Thakur, learned counsel for the accused and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Md. Jakir Hussain Ali**, who have been languishing in jail hazot, in connection with the **Garchuk P.S. Case No. 104/2024**, under Sections 120(B)/420/511 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by SI Mazibul islam, on 05.04.2024. The essence of allegations made in the FIR is that in connection with SDF PS GDE No. 61 dated 04.04.2024, a search was conducted at ISBT, near the Over Bridge and apprehended one person namely, Jakir Hussain Ali and recovered one suspected fake gold in boat shaped wrapped with pink coloured clothes, weighing 1484 grms.

4. Mr. Thakur, learned counsel for the accused submits that the accused was arrested on 05.04.2024, and since then he has been languishing in jail hazot for last 25 days. Mr. Thakur further submits that as there is no victim whom the accused person allegedly attempted to cheat, the Sections 120(B)/420/511 of the IPC are not attracted here in this case. Mr. Thakur also submits that the accused ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Sarma, learned Additional Public Prosecutor submits that he has not received the case diary and prays for some more time to produce the same before this Court.

6. However, considering the submission of learned counsel for the accused and also considering the nature of allegations as well as the period of detention of the accused, this Court is of the view that without perusing the case diary this application can be disposed of.

7. It appears that the accused was arrested on 05.04.2024, and since then he has been languishing in jail hazot for last 25 days. Further, it appears that though one suspected fake gold, in boat shaped, weighing 1484 grms was seized from the possession of the accused, yet, there is no allegation that the accused had tried to cheat any person by selling the aforesaid fake gold. The learned counsel for the accused has rightly pointed the same out at the time of argument.

8. Having considered above and also considering the period of detention and balancing the same with the offence alleged in the FIR, this Court is of the view that further custodial detention of the accused may not be warranted in the interest of investigation.

9. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, the accused be enlarged on bail.

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

JUDGE

Comparing Assistant