

GAHC010080872024



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

Case No. : Bail Appln./1164/2024

MD. JIARUL HOQUE @ JIAA
S/O FAIJLUR HOQUE
VILL- FAKHIGURI
P.S. KRISHNAI
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 02.05.2024

Heard Mr. F. Haque, 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/petitioner, who has been arrested in connection with Dharamtul P.S. Case No. 08/2024, under Section 395 of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Haque, learned counsel for the petitioner, that the accused/petitioner is a *bona fide* purchaser of the Areca Nuts and he is not involved in the alleged offence. However, it is a fact that some bags of Areca Nuts were recovered from his house which he purchased for his business purpose. Further, he submitted that the accused/petitioner has been shown arrest in connection with this case on 04.03.2024 and since then, he is in custody for last 71 days. However, the police never prayed for his police remand. He is still ready and willing to co-operate the I.O. in the further investigation of the case if he is granted with the privilege of bail.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials against the present accused/petitioner and the Areca Nuts were directly unloaded in his house after the hijacking of the truck and the police recovered around 1668 Kgs. of Areca Nuts from his house by digging the earth, which were kept concealed in his house premises. However, he submitted that there is sufficient progress in the investigation of the case and till date, there is no note from the I.O. that the Charge-Sheet will be submitted within short period or within the statutory period.

After hearing the submissions made by the learned counsels for both sides, I have perused the Case Diary and it is seen that the Areca Nuts were directly unloaded in the house of the accused/petitioner after hijacking of the truck and though he claimed himself to be a *bona fide* purchaser, but good quantity of Areca Nuts were recovered from his house by digging the earth in his house premises. Further it is seen that he was already arrested in connection with Mornai P.S. Case No. 08/2024, under Sections 380/411 IPC, and shown arrest in connection with this case. However, it is seen that the police never asked for his remand during the investigation of this case. Further, from the Case Diary, it is also seen that there are sufficient progress in the investigation of this case, though some quantity of theft Areca Nuts are yet to be recovered. However, considering the length of detention already undergone by the accused/petitioner, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner keeping him in custody and accordingly, I find that further custodial interrogation of the accused/ petitioner is not necessary here in this case for the interest of investigation.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Morigaon, the accused/petitioner, namely, Md. Jiarul Hoque @ Jiaa, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall fully co-operate with the investigation of the case and shall also 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.

JUDGE

Comparing Assistant