

GAHC010081772024



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

Case No. : Bail Appln./1186/2024

SALMAN HUSSAIN MAZUMDER
S/O JOYRUL HAQUE MAZUMDER
R/O VILL-UTTAR KANCHANPUR 1
PS PANCHGRAM
DIST HAILAKANDI ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR M J QUADIR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

30.04.2024

Heard Mr. M.J. Quadir, learned counsel for the accused and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Salman Hussain Mazumder, who has been languishing in jail hazot since 10.04.2024, in connection with Basistha P.S. Case No.231/2024 under Section 407 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Om Prakash Chaubey, on 03.04.2024. The essence of allegation made in the aforesaid FIR is that he is the Proprietor of a transport company in the name and style "Om Roadways" at Nalapara Kali Mandir Road and on 30.03.2024 he had loaded a twelve wheeler truck, bearing Registration No.AS-01LC-7377 with various items of worth ₹ 40,00,000/- and sent the same to the consignee of Silchar, but after reaching at Jowai of Meghalaya, the truck has gone to be untraced and the mobile number of the driver is found to be switched off.

4. Mr. Quadir, learned counsel for the accused, submits that the accused was arrested on 10.04.2024 and since then he has been languishing in jail hazot. Mr. Quadir further submits that the accused is an employee of Dolphin Security & Advertising, which is being engaged in the security of Panchgram Paper Mill and that he is no way involved with the offence alleged in the FIR and nothing has been recovered from his possession and therefore, Mr. Quadir contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR and he has impersonated himself as the owner of the truck, bearing Registration No.AS-01LC-7377 by using his mobile No.8453882168 and the investigation is in nascent stage and therefore, Mr. Sarma has opposed the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. It appears that the accused is languishing in jail hazot since 10.04.2024 and further, it appears from the case diary that the materials collected so far are quite inadequate to show the complicity of the present accused with the offence alleged in the FIR and in that view of the matter, his further custodial detention seems to be not warranted here in this case and accordingly, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned C.J.M., Kamrup (M), the accused, namely, Salman Hussain Mazumder, shall be enlarged on bail.

8. In terms of above, this bail application stands disposed of. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant