

GAHC010082402024



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

Case No. : Bail Appln./1205/2024

AKABBAR ALI
S/O LATE ABED ALI
R/O JORSHIMULI, GOSPUTA
DIST. KAMRUP, ASSAM

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**

29.04.2024

Heard Mr. N. Dubey, learned counsel of the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor representing the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by the accused/petitioner, namely, Akabbar Ali, who has been languishing in jail hazot since 01.03.2024 in connection with Dharamtul P. S. Case No. 08/2024 under Section 395 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Dubey that this is the subsequent bail application filed on behalf of the accused/petitioner after rejection of the earlier Bail Application No.1087/2024 dated 09.04.2024. It is contended by the petitioner that he deals with the business of areca nuts and on the night of the incident, around 18 numbers of bags of areca nuts were unloaded in his house by the main accused who belongs to his village. The petitioner was not aware about the fact that the main accused had hijacked the truck containing the areca nuts which was unloaded in his house and said accused person offered him to sell some areca nuts and apart from that he is not at all involved in the alleged offence as stated in the FIR. However, during the investigation, 18 numbers of bags of supari has been recovered from his house and further, the police searched in his shop, but nothing has been recovered.

Further, it is submitted that the accused/petitioner is behind the bar since 01.03.2024 and apart from that he was remanded to police custody for 14 days. More so, the present bail application has been filed on the ground of illness of his mother

which he could not file earlier. The petitioner's mother is suffering from kidney stone and she has been asked by the Doctor for immediate operation and in this regard, he also submitted the report of sonography along with one doctor advised slip. He also submitted that there is no one to take his mother to the hospital. Thus, considering the health ground of the petitioner's mother as well as considering the length of detention undergone by the accused/petitioner, he prays to enlarge the accused/petitioner on bail as the I.O. has got sufficient time for his custodial interrogation. Further, the petitioner is the permanent resident of his addressed locality and he is ready and willing to co-operate with the I.O., as and when his co-operation will be required.

On the other hand, Mr. Borthakur, learned Public Prosecutor, has submitted that there are sufficient incriminating materials available against the accused/petitioner, and also it is seen that the areca nuts were unloaded in his house and till date 18 bags of supari has been recovered from his house. Further, there is an allegation that remaining supari has already been sold out. The investigation is still under process and out of 15,000 Kgs. of areca nuts only 5,000 Kgs. of areca nuts has been seized till date. Accordingly, he raised objection in allowing the accused/petitioner to go on bail as further custodial interrogation may be required to unearth some other facts of the case.

Considering the submissions of learned counsels for both sides, I have perused the case record which reveals that there is sufficient progress of the investigation and some incriminating materials is available against the accused/petitioner. However, considering the illness of his mother as well as considering the length of detention undergone by the accused/petitioner i.e. 59 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

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, **Akabbar Ali**, 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.

JUDGE

Comparing Assistant