

GAHC010083662024



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

**Case No. : Bail Appln./1224/2024**

AKASH DAHAL  
S/O KHARKA BAHADUR DAHAL,  
R/O LAIREN MENSION, LAIPHEN SUPER MARKET, OPP. SHANKAR HALL,  
P.S. IMPHAL WEST, IMPHAL, DIST. IMPHAL, MANIPUR, PIN-795004

VERSUS

THE UNION OF INDIA  
REP BY THE SC. CUSTOMS DEPARTMENT

**Advocate for the Petitioner : MR H P GUWALA**

**Advocate for the Respondent : SC, CUSTOMS**

**BEFORE**  
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**Date : 01.05.2024**

Heard Mr. H.P. Guwala, learned counsel for the petitioner. Also heard Mr. S.C. Keyal, learned Standing counsel, NCB.

2. This is an application filed under **Section 439 Cr.P.C.**, seeking bail by the

petitioner, namely, **Akash Dahal**, in connection with **Customs Case No. 33/CL/IMP/AS/GAU/2023-24**, registered under **Section 110/104/135 of Customs Act, 1962**.

3. The factual matrix relating to the offence is that a complaint/petition was filed on 15.03.2024 stating that on receipt of secret information that a group of smuggler would be travelling from Dimapur by train No. 20503 down New Delhi Rajdhani Exp. with gold material suspected to be smuggled from Myanmar, accordingly, a checking was conducted in the said train and fourteen pieces of suspected gold was recovered from the petitioner. Accordingly the petitioner was apprehended and the gold biscuits were seized.

4. Learned counsel for the petitioner has submitted that the petitioner has been detained in custody since 15.03.2024. It is further submitted that as per Govt. of India notification vide circular No. 13/2022-Custom dated 16.08.2022 vide clause 2(c) of the said circular, arrest could be effected where the market value of the goods is Rs. 2,00,00,000/-. But in the present case, value of the seized gold is below Rs.2,00,00,000. It is also contended that the punishment prescribed for the alleged offence is upto 3 years. If the value of goods is Rs. 1 Cr. then the punishment is extended to 7 years. The learned counsel for the petitioner by referring Bail Appln./414/2024 dated 20.02.2024, submits that it is the covered matter and the petitioner may be enlarged on bail.

5. In response, Mr. Keyal, learned Standing counsel, NCB has produced the case diary and submits that about 2323.84 grams of gold of foreign origin valued at Rs.1,56,16,205/- (Rupees One Crore Fifty Six Lakh Sixteen Thousand Two Hundred Five Only) was recovered from the possession of the present petitioner. Investigation is still going on. As such, bail may not be considered at this stage.

6. The principal argument of the learned counsel for the petitioner is that the goods in question are not prohibited goods, but same are restricted. I would not like to go into this issue at this stage.

7. I have considered the submission of learned counsel for the parties. I have also perused the case diary.

8. I have taken into consideration the following aspects-

- (i) The offence is under Section 135 of the Customs Act.
- (ii) The maximum punishment on conviction can be upto seven years.
- (iii) The petitioner is in judicial custody for last 47 days.
- (iv) No apprehension that the applicant is likely to abscond or tamper with the prosecution witnesses or evidence.

9. I take notice of the fact that even if the goods are to be treated as prohibited goods, the maximum punishment would be upto seven years. The offence is otherwise triable by the court of Magistrate.

10. Considering the fact as well as the length of detention of the petitioner, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary for the purpose of investigation of the case.

11. Accordingly, the accused-petitioner, named above, shall be released on bail in connection with **Customs Case No. 33/CL/IMP/AS/GAU/2023-24**, registered under **Section 110/104/135 of Customs Act, 1962**, on furnishing bail bond of **Rs.50,000/- with two suitable sureties** of the like amount out of which one of the sureties should be a Government employee of Assam, to the satisfaction of learned CJM, Kamrup(M), Assam.

12. The direction for bail is further subject to the conditions that the accused-petitioner:

(i) shall not leave the territorial jurisdiction of learned CJM, Kamrup(M), Assam, without prior written permission from him/her;

(ii) 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.

(iii) If the petitioner has a passport, he shall surrender the same to the court of learned CJM, Kamrup(M) and shall not travel out of the country without prior permission of the learned trial court;

(iv) shall appear before the Investigating Police Officer once in a week for six weeks after his release on bail as and when called upon by the Investigating Police Officer till the investigation of the case is completed.

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

14. Send back the case diary.

**JUDGE**

**Comparing Assistant**