

GAHC010090342024



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

Case No. : Bail Appln./1298/2024

MUSTAFIZUR RAHMAN
S/O- USUB ALI, R/O- LENGTRIBARI, P.O. SAHARIA GAON, P.S. MOIRABARI,
PIN- 782126, DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM

Advocate for the Petitioner : MR B P BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 13-05-2024

Heard Mr. B.P. Borah, learned counsel for the accused-petitioner and Mr. P. Borthakur, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Mustafizur Rahman has prayed for his release on bail in connection with Gorchuk Police Station Case no. 80/2024 registered under Sections 461/380, Indian Penal Code [IPC].

3. In the First Information Report [FIR], lodged on 13.03.2023, an incident of theft which occurred at the godown at Pub-Boragaon, Gorchuk, Guwahati of M/s Ronak Enterprise, was

reported. The stolen items were E-rickshaw Batteries, E-rickshaw Chargers and E-rickshaw Parts. The CCTV installed was found broken and the DVR box was found stolen.

4. In the course of investigation, a number of persons including the accused-petitioner, had/have been arrested. As per the forwarding report dated 29.03.2024, 48 nos. of stolen E-rickshaw Chargers and E-rickshaw Parts have been recovered from the house of one Ramjan Ali. The accused-petitioner has been apprehended and forwarded to the Court of learned Chief Judicial Magistrate, Kamrup [Metro] on 25.04.2024 and since then the accused-petitioner is in custody. As per forwarding report dated 25.04.2024, 10 nos. of stolen E-rickshaw Batteries and 10 nos. of E-rickshaw Chargers were recovered from the house of a relative of the accused-petitioner. It is mentioned that there is apprehension that the crime has been perpetrated by an organised group.

5. Mr. Borthakur, learned Additional Public Prosecutor, who has received the case diary, has submitted on the basis of the materials, collected during the course of investigation carried out so far, available in the case diary, that the accused-petitioner is suspected to be involved in the crime as a number of items, mentioned above, have been recovered from the house of a relative of the accused-petitioner. It is further submitted by him that a substantial part of the stolen items have not yet been recovered and the investigation is in progress

6. The accused-petitioner is in custody for 19 days since 25.04.2024. The main ground for apprehending the accused-petitioner is that 10 nos. of E-rickshaw Batteries and 10 nos. of E-rickshaw Chargers have been recovered from the house of a relative of the accused-petitioner whereas the allegation in the FIR is that 507 nos. of E-rickshaw Batteries and 168 nos. of E-rickshaw Chargers worth Rs. 7,52,472/-, have been stolen.

7. Having regard to the fact that the accused-petitioner is in custody for a period of 19 days since 25.04.2024; and considering the fact that no stolen item is recovered from the custody and possession of the accused-petitioner, this Court is of the considered view that further custodial detention of the accused-petitioner is not necessary for the purpose of carrying out further investigation into the case and his release on bail, at this stage of

investigation, is unlikely to cause any adverse effect into the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

8. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of Rs. 50,000/- with one local surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M], Guwahati subject to the conditions that :-

[i] the accused-petitioner shall co-operate with the investigation and make himself available for interrogation whenever required by the Investigating Officer [I.O.] of the case;

[ii] the accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

9. The bail application stands disposed of in the aforesaid terms

JUDGE

Comparing Assistant