

GAHC010101082024



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

Case No. : Bail Appln./1481/2024

MD ABDUL KARIM AND ANR.
S/O MD. TAHER ALI
VILL- BHUYANBARI PATHER
P.S. LAHARIGHAT, P.O. FALIHAMARI PATHAR, DIST. MORIGAON, ASSAM

2: MD. ASHIKUL ISLAM
S/O MD. ABDUL MATALIB
VILL- BHUYANBARI PATHER
P.S. LAHARIGHAR

PO. FALIHAMARI PATHER
DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

29.05.2024

Heard Mr. J. Ahmed, learned counsel for the accused persons and
Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused persons namely, **Md. Abdul Karim** and **Md. Ashikul Islam**, who have been languishing in jail hazot since 22.04.2024, in connection with the **Azara P.S. Case No. 85/2024**, under Sections 407/379 of the IPC, for granting bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Anurag Agarwal, on 13.04.2024. The essence of allegation made in the FIR is that on 12.04.2024, at about 7:30 p.m., 200 packets of moong dal 30 kg in each packet, 100 packets of chana dal 30 kg in each packet, 500 packets of mosur dal 30 kg in each packet, worth of Rs. 19,07,307/- and 100 packets of moong dal 30 kg in each packet worth of Rs. 3,31,821/- were loaded in a Truck, bearing Registration No. NL-01- K-1761, belonging to R.K. Transport, Azara driven by one Umad Ali, and the consignment was supposed to be delivered to Maya Product, Barpetaroad. But, later on, he found the vehicle along with the loaded articles missing and also found the mobile phone of the driver switched off.

4. Mr. Ahmed, learned counsel for the accused persons submits that the accused persons were arrested on 22.04.2024 and since then they have been languishing in jail hazot for last 38 days. Relying to Annexure – III & IV of the petition, which are Labour Identity Card, Mr. Ahmed further submits that both the accused persons are labourer and except loading and unloading of the articles, they are no way involved with the offence alleged in the FIR. Mr. Ahmed also submits that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Sarma, learned Additional Public Prosecutor

has produced the case diary before this Court and submits that the stolen articles were first stored in godown of accused No.2 i.e. Ashikul Islam. Mr. Sarma further submits that the investigation is going on and that some of the co-accused persons are yet to be arrested and some stolen articles are also to be recovered, and therefore, it is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused persons were arrested on 22.04.2024 and since then they have been languishing in jail hazot for last 38 days. Further it appears from the case diary that the stolen articles were first stored in the godown of Ashikul Islam and thereafter sold to some other persons.

8. In view of the materials so far collected in the case diary against the accused namely, Md. Ashikul Islam, this Court is of the view that the privilege of bail cannot be granted to him at this stage. Accordingly, the prayer of Md. Ashikul Islam stands **dismissed**.

9. However, considering the materials so far collected in the case diary against the accused No. 1 namely, Md. Abdul Karim and also considering his period of detention, this court is of the view that his further custodial detention seems to be unwarranted here in this case. Accordingly, the prayer, so far it relates to accused No. 1 namely, Md. Abdul Karim stands **allowed**.

10. It is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial**

Magistrate, Kamrup (M) at Guwahati, the accused No.1 namely, Md. Abdul Karim be enlarged on bail.

11. In terms of above, this bail application stands disposed of.

12. The case diary be returned.

Comparing Assistant

JUDGE