

GAHC010106842024



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

Case No. : Bail Appln./1583/2024

ABDUL BASIT
S/O ABDUL KALAM
R/O DAKSHINTEJPUR
P.O. KOTAMONI, P.S. BAZARICHERRA,
DIST. KARIMGANJ, ASSAM,
PIN- 788728

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M H RAJBARBHUIYAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 21.06.2024

Heard Mr. M. H. Rajbarbhuiyan, learned counsel for the petitioner. Also heard Mr. K. K. Baishya, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for regular bail the accused person in the instant case, being arrested on 03.05.2024 in connection with Bazaricherra P.S. Case No. 39/2012, corresponding to Sessions Case No. 50/2013, under Sections 342/325/376(g)/34 of the Indian Penal Code.

The scanned copy of the Case Diary has been received, I have perused the same and heard both the sides.

It is submitted by the learned counsel for the petitioner, Mr. M. H. Rajbarbhuiyan, that the petitioner is innocent and he is no way connected in the alleged offence. He also submitted that earlier the petitioner was granted with bail and he was regularly appearing before the Trial Court. It is contended by the petitioner that to earn his livelihood he shifted to Hailakandi and informed his counsel about the change in address, but the learned counsel did not take any steps for which the warrant was issued against him. In the year 2014, when he enquired about the matter and he found that the matter was disposed of as per the CIS system, and for which reason he did not appeared before the learned Court below. Subsequently he was arrested on the strength NBWA issued against him by the learned Court below and since then, i.e. 03.05.2024, he is behind the custody. He is a permanent resident of his address and there is no chance of absconding, if he is enlarged on bail and he will appear regularly before the learned Court below and face the trial, if the same is granted.

He further submitted that the accused could not appear before the learned Court below as he did not get any proper instructions from his engaged counsel, rather, he was under the impression that case has already been disposed of.

In this context, the learned Additional Public Prosecutor, Mr. Baishya, submitted that the charge was framed against the present accused/petitioner along with others on 16.05.2013 and since then the present petitioner along with others are absconding and did not appear before the Court. However, 2 (two) PWs were already examined by the learned Court below and on the complaint filed by the mother of the victim on 03.05.2014, the NBWA issued against the present petitioner along with others. But in spite of several steps taken by the learned Court below, their attendance could not be procured and for which the present accused petitioner was declared as an absconder by the learned Court below. He was arrested in connection with this case on 03.05.2024, after several attempt made by the learned Court below.

Accordingly, he submitted that considering the conduct of the accused/petitioner, it is not at all a fit case to allow the accused to go on bail.

Considering the submissions of learned counsel for both sides, I have perused the case record, it is seen that after enlarging the accused persons on bail, they appear before the learned Court below and accordingly the charges were framed on 16.05.2023 and thereafter, the case was fixed for evidence on 26.06.2013. But, since then the accused person remained absent and the learned District and Sessions Judge, Karimganj also issued notice through the Bailer to procure the attendance of the accused/petitioner along with others. But, in spite of best efforts, the attendance of the present accused/petitioner could not be procured by the learned Court below and for which the proclamation has to be issued and finally the accused/petitioner was declared as an absconder by the learned District and Sessions Judge, Karimganj. Thus, it is seen that the accused/petitioner was absconding since last more than 10 years and for which the case could not be disposed

of by the learned Court below and he got arrested in connection with this case only on the strength of NBWA issued by the Court on 03.05.2024.

Considering the entire circumstances of the case, effort made by the Learned District and Sessions Judge, Karimganj vis-a-vis to the conduct of the present accused/petitioner, I do not find it a fit case to allow the accused/petitioner to go on bail and there is every probability of absconding of the accused petitioner.

With the above observation, the petition stands dismissed.

JUDGE

Comparing Assistant