

GAHC010112852024



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

Case No. : Bail Appln./1637/2024

MIR ALI
S/O LATE KAMAR ALI, R/O GARIGAON, BILLAL MOLLA PARA, NEAR
EIDGAH FIELD, P.S.-JALUKBARI, GUWAHATI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20-06-2024

1. Heard Mr. M. Biswas, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.

2. This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Mir Ali*, who has been detained behind the bars since 23.05.2024 (for last 28 days) in

connection with Panbazar P.S. Case No. 105/2024.

3. The gist of accusation in this case is that on 15.05.2024, the Bench Assistant of the Court of the learned Additional Sessions Judge (FTC) No. 3, Kamrup(M), Guwahati had filed an FIR before the Officer-in-charge of Panbazar Police Station, *inter alia*, alleging that while submitting the bail bonds in NDPS Case No. 39/2021 where one of the conditions for grant of bail to the accused was that "one of the bailer should be a Government servant". It was suspected that the documents submitted by the bailer who projected himself to be the Government servant were forged and on enquiry it was ultimately found that the said bailer had produced the fake documents and the present petitioner is accused of helping procuring the said documents.

4. The learned counsel for the petitioner has submitted that the petitioner has already undergone the detention behind the bars for last 28 days and the relevant documents have already been seized from him and under such circumstances his further custodial detention may not be necessary. It is also submitted by the learned counsel for the petitioner that the petitioner is ready to cooperate in the investigation.

5. On the other hand, the learned Additional Public Prosecutor had produced the case diary of Panbazar P.S. Case No. 105/2024 and has submitted that though the investigation could not be completed due to non-cooperation by one another co-accused who has not appeared before the Investigating Officer in spite of the issuance of notice under Section 41A to him. However, as regards the present petitioner, the investigation has been

substantially progressed and his statement under Section 161 of the Code of Criminal Procedure, 1973 has also been recorded.

6. I have considered the submissions made by learned counsel for both the side as well as perused the materials available on record including the case diary of Panbazar P.S. Case No. 105/2024.

7. Though, there appears to be some incriminating materials against the present petitioner in the case diary, however, considering the fact that his statement under Section 161 of the Code of Criminal Procedure, 1973 has already been recorded and also considering the period of detention period undergone by him, his custodial detention does not appear to be necessary, if he cooperates in the investigation.

8. In view of the above, the above named petitioner is allowed to go on bail of Rs.30,000/- with one surety, subject to satisfaction to the learned CJM, Kamrup(M) with following conditions:-

1. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of this case so as to dissuade such person from deposing against the petitioner in the ensuing trial before the Trial Court;
2. That the petitioner shall appear before the trial court as and when so required by the Trial Court;
3. That the Trial Court may impose any additional condition for bail during trial if it deems fit to do so, to procure regular attendance of the petitioner during trial.

9. With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant