

GAHC010113722024



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

Case No. : Bail Appln./1641/2024

MD. ASHIKUL ISLAM
S/O MD. ABDUL MATALIB
RESIDENT OF VILLAGE BHUYANBARI PATHER, PS LAHARIGHAT ,PO
SAITANTULI, DIST MORIGAON ASSAM

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

13.06.2024

Heard Mr. J. Ahmed, learned counsel for the accused and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by accused, namely, Md.

Ashikul Islam, who has been languishing in jail hazot since 22.04.2024, in connection with Azara P.S. Case No.85/2024 under Section 407/379 IPC, for grant of bail.

3. It is to be noted here that the above noted 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 aforesaid 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 ₹ 19,07,307/- and 100 packets of moong dal 30 kg in each packet worth of ₹ 3,31,821/- were loaded in a Truck, bearing Registration No.NL-01K-1761, belonging to R.K. Transport, Azara driven by one Umad Ali, and the consignment was supposed to be delivered to Maya Product, Barpeta road. 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 submits that this is the 2nd bail application preferred by the accused and the first application, being Bail Appln. No.1481/2024 was dismissed by this Court, vide order dated 29.05.2024 after perusing the case diary. Mr. Ahmed further submits that though the earlier bail application was rejected after perusing the case diary and having found sufficient materials against the accused, yet, in fact, the accused is a daily wage earner and he has no godown at all and he is behind the bar for last 52 days and that he is ready to cooperate with the investigating agency and therefore, Mr. Ahmed contended that the accused may be allowed to go on bail.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and referring to a note of the I.O. of this case, Mr. Lahkar submits that in fact, the present accused is daily wage earner and he has no godown at all. Further, Mr. Lahkar submits that though some of the stolen materials are yet to be recovered, the I.O. has collected some evidence in the meantime, for which Mr. Lahkar has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully

gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. P.S. Lahkar, learned Additional P.P.

7. The case diary indicates that the I.O. has achieved substantial progress in the investigation of this case. Further, it appears from the note of the I.O. in the case diary that the present accused was working as a daily labourer and he has no godown at all, though earlier it has been reflected in the case diary that the present accused has a godown in his name where the stolen articles were stored. Further, it appears that the accused is behind the bar for last 52 days. In view of above, specially the length of detention, further custodial detention of the accused seems to be not required in the interest of investigation and therefore, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned C.J.M., Kamrup(M), the accused, namely, Md. Ashikul Islam, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant