

GAHC010117062024



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

Case No. : I.A.(CrI.)/565/2024

ABDUL JALIL
S/O- LT. NUR UDDIN, VILL- DURLABPUR, P.S. PATHERKANDI, DIST.-
KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : Ajif Ahmed

Advocate for the Respondent : PP, ASSAM

In

Bail Appln./634/2024 (D/O)

ABDUL JALIL
S/O- LT. NUR UDDIN
VILL- DURLABPUR
P.S. PATHERKANDI
DIST.- KARIMGANJ
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP
ASSAM

Advocate for : MR. M A CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

29.07.2024

- 1.** Heard Mr. M.A. Choudhury, the learned counsel for the applicant. Also heard Mr. K.K. Parasar, learned Additional Public Prosecutor, appearing for the State of Assam.
- 2.** This Interlocutory Application has been filed by the applicant, namely, Abdul Jalil praying for modification of the order dated 08.04.2024, passed by this Court in Bail Application No. 634/2024, whereby, bail was granted to the applicant with certain conditions, one of the conditions mentioned for release of the applicant on bail was that he shall furnish two sureties and one of whom should be a government employee and should be a resident of the State of Assam.
- 3.** The learned counsel for the applicant has submitted that the though the applicant is a permanent resident of Karimganj District, however, he is unable to arrange a government servant to stand as his surety.
- 4.** It is submitted by the learned counsel for the applicant that though the applicant was granted bail on 08.04.2024, however, even after lapse of more

than three months from the date of the said order, he has not been able to arrange for a government surety.

5. The learned counsel for the applicant has also submitted that the Supreme Court of India in the case of "***Suo Moto Writ Petition (Crl.) No. 4/2021***" reported in "***2023 SCC Online SC 483***" has issued certain directions to be complied with in connection with execution of bail orders and the Guideline Nos. 5,6 and 7 which are relevant to the present case are reproduced herein below for the sake of convenience:-

"5. In cases where the undertrial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.

6. If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation.

7. One of the reasons which delays the release of the accused/convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the condition of local surety."

6. It appears that in the aforesaid case, the Apex Court has directed that if from the date of grant of bail order to an accused, he fails to furnish bail bond

for a period of one month, the concerned Court has to take *Suo Moto* case and to consider whether the conditions of bail are required to be relaxed and modified.

7. It appears from record that the present applicant was directed to be released on bail, by order dated 08.04.2024 on furnishing a bond of Rs. 50,000/- with two suitable sureties of like amount, one of whom should be a government servant and a resident of the State of Assam with certain other conditions.

8. However, from the facts and circumstances which have been stated in the Interlocutory Application and submitted by the learned counsel for the applicant, it appears that the condition of arranging a government servant as one of the bailor for the petitioner has become cumbersome for him and he is unable to arrange such a bailor even after lapse of three months of the passing of the bail order.

9. The learned counsel for the applicant has however submitted that the applicant would be able to arrange two local sureties and therefore, prays for relaxing the requirement regarding necessity of government servant to be a bailor.

10. I have also heard the learned Additional Public Prosecutor, who raises no objection to the same. Under the above circumstances, this Court is of the considered opinion that without relaxing any other conditions imposed on the applicant, by the order dated 08.04.2024, if the condition regarding requirement of government servant to be a bailor is relaxed, it would serve the cause of justice. Hence, the said condition is accordingly modified.

11. For the sake of clarity, it is hereby made clear the applicant is allowed to go on bail of Rs. 50,000/- with two sureties of like amount who should be a

resident of Assam. The other conditions of the bail imposed by the order dated 08.04.2024 passed in Bail Application No. 634/2024 shall remain as it is.

12. With the above observations, this Interlocutory Application is disposed of.

JUDGE

Comparing Assistant