

GAHC010120992024



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

Case No. : Bail Appln./1751/2024

DIPANGKAR DAS
S/O DEBEN DAS
PERMANENT RESIDENT OF HOUSE NO. 1, KUKESWAR BARUAH PATH,
BHAGADUTTAPUR, KAHILIPARA, GUWAHATI, P.S. DISPUR, DIST. KAMRUP
(M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. R BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 26-06-2024

- 1.** Heard Mr. R. Bora, 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, *Dipangkar Das*, who has been

detained behind the bars since 05.06.2024 in connection with Basistha P.S. Case No. 352/2024.

3. The gist of accusation in this case is that 20.05.2024, one Pradeep Sinha of Instakart Services Private Limited had lodged an FIR before the Officer-in-Charge of Basistha Police Station, *inter alia*, alleging that one Shahidul Islam, the delivery executive of the Instakart Services Limited was involved in misappropriation of shipment received through Flipkart.

4. It is also submitted by the learned counsel for the petitioner that after lodging of the said FIR, Basistha P.S. Case No. 352/2024 was registered and investigation was initiated and on 03.06.2024, the accused named in the FIR, namely, Shahidul Islam was arrested and was remanded to the Police custody. It is submitted by the learned counsel for the petitioner that during Police custody the co-accused, had disclosed the name of the present petitioner having been involved in similar offences and on 05.06.2024, Basistha Police arrested the petitioner without serving any notice under Section 41A of the Code of Criminal Procedure, 1973 to the above named petitioner though for both the offences involved in this case, the maximum punishment is not more than 7(seven) years.

5. The learned counsel for the petitioner has submitted that he is innocent and has already been detained for more than 20(twenty) days and considering the period of detention, he may be allowed to go on bail.

6. Considering the fact that no notice under Section 41A was served on him as well as considering the period of detention, the petitioner may be

allowed to go on bail.

7. On the other hand, learned Additional Public Prosecutor has produced the case diary of Basistha P.S. Case No. 352/2024 and has submitted that though there are incriminating materials against the above named petitioner, however, he has also submitted that the investigation has fairly progressed.

8. I have considered the submissions made by learned counsel for both the sides and have perused the materials on record including the case diary of Basistha P.S. Case No. 352/2024.

9. In this case, as the offence involved, the prescribed punishment is not more than seven years, the arresting authority should have issued notice under Section 41A of the Code of Criminal Procedure, 1973 to the present petitioner before affecting any arrest.

10. It also appears that in the meanwhile the investigation has fairly progressed, hence, further custodial detention of the above named petitioner does not appear to be necessary for fair completion of the investigation of Basistha P.S. Case No. 352/2024.

11. In view of the above, the above named petitioner is hereby allowed to go on bail of Rs.30,000/- with one surety of like amount subject to the satisfaction of learned Chief Judicial Magistrate, Kamrup(M), Guwahati:-

- i. That the petitioner shall cooperate in the investigation and shall appear before the Investigating Officer;
- ii. That the petitioner shall not directly or indirectly make

any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

- 12.** With the above observation, this bail application is accordingly disposed of.
- 13.** Send back the case diary.

JUDGE

Comparing Assistant