

GAHC010121822024



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

Case No. : Bail Appln./1779/2024

MD. JEHERULHOQUE
S/O MD. ABUBAKKAR SIDDIQUE
R/O TILARDIA, CHAR NAPARA PAM
P.S. SIALMARI, DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 28-06-2024

Heard Mr. S. Munir, learned counsel for the petitioner Md. Jeherul Hoque, who has filed this application under Section 439 of the Code of Criminal Procedure, 1973 with prayer for bail as he is behind bars since 03.06.2024 in connection with Jagiroad Police Station Case No. 95/2024 under Section 392 of the Indian Penal Code, 1860 (IPC for short), read with added Section 399/395/411 of the IPC.

2. Heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the respondent State. The learned Additional Public Prosecutor has raised objection stating that this petitioner along with the co-accused who have been apprehended in connection with this case have been operating as a gang of dacoits. The petitioner is not entitled to bail. There are incriminating materials in the Case Diary against the petitioner. The staggering magnitude of the offence does not entitle the petitioner to bail. Investigation will be adversely affected if the petitioner is admitted to bail.

3. The learned counsel for the petitioner has submitted that the forwarding report clearly reveals that the petitioner is not liable for offence under Section 397 of the IPC, or under Section 392 of the IPC. It is submitted on behalf of the petitioner that petitioner is in no way connected with this case and he has been caught by the police only on suspicion. It is further submitted that the petitioner is innocent.

4. The FIR unfolds that on 11.05.2024 at around 6:00 AM, the complainant was informed by the owner of the vehicle bearing registration No. AS/01HC/7609 that the vehicle has been hijacked from Bhumuraguri, Jagiroad by some unknown culprits from the possession of the driver. The approximate value of the loaded articles would be Rs.11,35,863/- (Rupees Eleven Lacs Thirty Five Thousand and Eight Hundred Sixty Three). Later on, the driver of the hijacked vehicle Md. Sahajamal Sheikh was recovered by the Khetri Police Station and Jagiroad Police and when confronted the driver stated that on 11.05.2024 at about 1:30 PM he parked his vehicle at Bhumuraguri, Jagiroad, when two unknown miscreants waylaid him and took him towards Khetri and thereafter, the miscreants had taken away the vehicle. During investigation, the petitioner along with two accused have been forwarded to custody.

5. I have considered the submissions at the bar with circumspection. Indeed there are incriminating materials in the Case Diary against the petitioner. However, I have considered the length of detention and I have considered the submission of the petitioner that he will cooperate with the investigation. I have considered the submission of the petitioner that he will abide by any stringent bail conditions if imposed upon him.

6. Considering all aspects and in view of my foregoing discussions, petition is allowed.

7. The petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Morigaon under the conditions that:

(i) The petitioner shall refrain from such activities with which he is alleged.

(ii) The petitioner shall appear before the Investigating Officer on every fortnight till completion of investigation.

(iii) The petitioner shall cooperate with the investigation.

(iv) The petitioner shall not leave the jurisdiction of the Court without prior permission.

8. On breach of any of the bail conditions, bail order shall stand cancelled.

9. In the above terms, this Bail Application stands disposed of.

10. Send back the Case Diary.

JUDGE

Comparing Assistant