

GAHC010127852024



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

Case No. : AB/1673/2024

MOJAKKIR HOQUE @ MOJAKIR ALI
S/O TAHIR ALI, R/O NARIKALI, KHANDAJAN, PATGIRICHUBA, P.O.-
KHANDAJAN, P.S.-SIPAJHAR, DIST- DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27-06-2024

- 1.** Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State.

- 2.** This application has been filed under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Mojakkir Hoque @ Mojakir Ali*, who is apprehending his arrest in connection with Sipajhar P.S. Case No. 95/2024 under Sections 120(B)/353/323/224 of the Indian Penal Code.

3. The gist of accusation is that on 11.06.2024, one Dharani Deka had lodged an FIR before the Officer-in-Charge of Sipajhar Police Station, *inter alia*, alleging that on 18.06.2024, the co-accused, namely, Kulen Nath who was arrested in connection with Sipajhar P.S. Case No. 95/2024 was kept in Police custody and in the evening at about 7.00 PM on the pretext of drinking water, the co-accused Kulen Nath and his nephew pushed the first informant and escaped from the custody in a baleno vehicle. The driver of the said baleno vehicle was the present petitioner.

4. The learned counsel for the petitioner submits that the petitioner is innocent person and is not involved in the offence alleged in the FIR, his vehicle was hired by Kulen Nath on the date of alleged incident.

5. It is also submitted that later on both the accused persons, namely, Kulen Nath and Pranita Nath have surrendered before the Police on the next date and the petitioner is ready to cooperate in the investigation.

6. I have considered the submissions made by the learned counsel for the petitioner as well as learned Additional Public Prosecutor.

7. On perusal of the materials available on record, it appears that the co-accused Kulen Nath has alleged in an application which was filed before the Court of learned Sub-Divisional Judicial Magistrate, Mangaldai that he escaped only as he was apprehending severe torture in Police custody and it also appears that the only involvement of the present petitioner is that his vehicle was hired by the nephew and the wife of the co-accused Kulen Nath, who have already surrendered.

8. Considering the above noted fact, this Court is of considered opinion that if the above named petitioner cooperates with the Investigating Officer, his custodial detention may not be necessary for fair completion of Sipajhar P.S. Case No. 95/2024.

9. In view of the above, the above named petitioner is directed to appear before the Investigating Officer of Sipajhar P.S. Case No. 95/2024 within a period of 10(ten) days from the date of this order and cooperate in the investigation. If he does so, within the stipulated period of time, in the event of his arrest in connection with Sipajhar P.S. Case No. 95/2024, the above named petitioner shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount, subject to satisfaction to the arresting authority with following conditions:-

- 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.

10. With the above observation, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant