

GAHC010130182024



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

Case No. : Bail Appln./1897/2024

ABDUL MALIK MOLLAH @ RINKU
S/O LATE HAJI NURZZMAN MOLLAH
PERMANENT RESIDENT OF OF WARD O. 09, BIDYAPARA, P.O. AND P.S.
DHUBRI, IN THE DISTRICT OF DHUBRI-783301, ASSAM AND PRESENTLY
RESIDING AT HOUSE NO. 25, B/L -JYOTI PATH, JONAK NAGAR
KAHILIPARA, P.S. DISPUR, IN THE DISTRICT OF KAMRUP (M), GUWAHATI-
781019, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. V N UPADHYAY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 16.07.2024

Heard Ms. P. Mishra, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Addl. P.P., Assam for the State respondent.

This is an application under Section 439 of the Cr.P.C. for granting bail to the petitioner, namely, Abdul Malik Mollah @ Rinku who was arrested on 13.06.2024 in Connection with Dispur P.S. Case No. 587/2024 registered under Sections 120(B)/387/419 of the IPC.

The C.D. has been received.

I have perused the same.

It is submitted by Ms. P. Mishra, the learned counsel that the petitioner is not in any way connected with the alleged offence. She further submitted that there is no ingredients to attract Section 387 IPC as there is no statement in the F.I.R. that money was extorted under fear of death or grievous hurt. Rather, there was negotiation for the demanded amount of Rs. 3 Lakhs and ultimately it was settled at an amount of Rs. 50,000/-. The victim left the place to arrange the money and when came back after arranging the money, he came to know that the accused persons have been picked up by police. The victim anticipating any danger approached the police seeking help.

The learned counsel for the petitioner submitted that further custodial detention of the petitioner may not be necessary as the Investigating Officer got sufficient opportunity to interrogate the accused as the petitioner is behind the bars for the last 33 days.

In this context Mr. P. Borthakur, learned Addl. P.P. appearing for the State respondent submitted that it is a fact that the FIR was lodged after the police arrested the accused petitioner after getting the information regarding some illegal activities are going on at Sandhya Apartment at Bonful Nagar Beltola Survey and arrested the accused petitioner. However, Mr. Borthakur submitted that there is a G.D. Entry in the case diary. He submitted that some illegal activities were going on in the same premises of the apartment and for which police had prior information and accordingly arrested the accused petitioner. Mr. Borthakur further submitted that in connection with the case police recovered one mobile handset and a diary from the petitioner wherein some objectionable photographs were found in his mobile handset.

Considering the submissions of the learned counsel for both the sides and on examination of the case diary it is seen that there was prior information with the police regarding some illegal activities going on in the apartment and the petitioner was arrested in connection with the present case prior to lodging of the FIR.

However, considering entire aspects of the matter and the length of detention of the present petitioner, I find that the Investigating Officer got sufficient opportunity to interrogate the accused as the petitioner is behind the bar for the last 33 days and hence, further custodial interrogation may not be necessary.

Accordingly, it is provided that the accused petitioner, named above, be enlarged on bail, on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of the like amount to the satisfaction of the learned CJM, Kamrup (M) subject to the following conditions :

1. that the accused petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
2. that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer; and
3. that the petitioner shall not hamper in the investigation of the case and tamper with evidence of the case;

Return the Case diary.

The bail application is disposed of.

JUDGE

Comparing Assistant