

GAHC010131652024



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

**Case No. : AB/1687/2024**

ABUL HUSSAIN  
S/O LATE ASHAR ALI  
R/O VILL- NO. 2 DHUHI P.O. AND P.S. KAYA, DIST. KAMRUP

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PP, ASSAM

**Advocate for the Petitioner : MR. M BISWAS**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**28.06.2024**

- 1.** Heard Mr. M. Biswas, learned counsel for the petitioner. Also heard Ms. N. Das, learned Additional Public Prosecutor appearing for the State of Assam.
- 2.** This application under Section 438 of the Code of Criminal

Procedure, 1973 has been filed by the petitioner, namely, Abul Hussain, who is apprehending his arrest in connection with Panbazaar P.S. Case No. 105/2024 under section 420/468 of the Indian Penal Code, 1860.

**3.** The gist of accusation in this case is that on 15.05.2024, the Bench Assistant of the Court of the learned Additional Sessions Judge (FTC) No. 3, Kamrup(M), Guwahati had filed an FIR before the Officer-in-charge of Panbazar Police Station, inter alia, alleging that while submitting the bail bonds in NDPS Case No. 39/2021 where one of the conditions for grant of bail to the accused was that "one of the bailer should be a Government servant". It was suspected that the documents submitted by the bailer who projected himself to be the Government servant were forged and on enquiry it was ultimately found that the said bailer had produced the fake documents and the present petitioner is accused of helping procuring the said documents.

**4.** The learned counsel for the petitioner has submitted that one of the co-accused, who was arrested in this case, namely, Mir Ali has already been granted bail in this case.

**5.** It is also submitted by the learned counsel for the petitioner that the above-named petitioner is an Advocate clerk by profession and he has his role limited to the extent he had only filled up the bail bonds submitted by the bailor against whom the allegations of submitting fake documents is made.

**6.** The learned counsel for the petitioner has also submitted that petitioner has received a notice under section 41A of the Code of Criminal

Procedure, 1973 and the date mentioned in the said 41A notice has already lapsed and therefore, he apprehends that if he appears before the Investigating Officer now, he may be arrested.

**7.** It is submitted by the learned counsel for the petitioner that the petitioner is ready and willing to co-operate in the investigation.

**8.** Considering the fact that the co-accused has already been released on bail, and also considering the submissions made by learned counsel for the petitioner, as discussed herein above, this Court is of the considered opinion that custodial detention of the present petitioner may not be necessary, if he co-operates in the investigation. Hence, the above-named petitioner, is directed to appear before the Investigating Officer of Panbazaar P.S. Case No. 105/2024, within a period of 10 days from the date of this order and co-operate in the investigation. If he does so within the stipulated period of time, in the event of his arrest in connection with Panbazaar P.S. Case No. 105/2024, the above named-petitioner shall be allowed to go on interim bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

- (i) the petitioner shall co-operate in the investigation; and
- (ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

**9.** With the above observations, this anticipatory bail application is hereby disposed of.

**JUDGE**

**Comparing Assistant**