

GAHC010135852024



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

Case No. : Bail Appln./1972/2024

MUNINDRA KUMAR DEV SHARMA
S/O- DEBEN SHARMA R/O-H.NO-14, PUBALI PATH, MAIDAMGAON,
TRINYAN NAGAR, JAYANAGAR, SIXMILE, GUWAHATI.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM.

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

03.07.2024

Heard Mr. AM Bora, learned Senior counsel assisted by Mr. BP Borah, learned counsel for the petitioner. Also heard Mr. Gogoi, learned Additional Public Prosecutor, Assam.

This is an application filed under Section 483 of the BNSS, 2023 praying for granting regular bail to the petitioner, Munindra Kumar Dev Sharma, who was arrested

on 27.06.2024 in connection with CR case No. 3328/2023 registered under Section 138 of NI Act in execution of a NBWA, issued by the learned trial court.

The petitioner is an accused in CR case No. 3328/2023 under Section 138 of NI Act. During the course of trial, the petitioner defaulted in appearing before the learned trial court on 19.06.2024. The petitioner has given an explanation that the petitioner has regularly been participating in the trial and he had defaulted in appearing in the case on 19.06.2024, for the reason that he could not come to the court due to unprecedented flood in the city of Guwahati and accordingly he intimated his lawyer but in such situation his lawyer also could not take steps for his absence and accordingly, NBWA was issued.

Mr. Bora, learned Senior counsel contends that in the backdrop of the nature of the litigation and in the backdrop that the petitioner has all throughout been appearing in the learned trial court, the learned trial court ought not to have issued NBWA on the first date of default. However, subsequently the petitioner was arrested on the strength of such NBWA and was produced before the court on 27.06.2024 and since then the petitioner is in custody.

Mr. Gogoi, learned Additional Public Prosecutor, Assam submits that strict conditions may be given to the petitioner in granting the bail.

Perused the material available on record along with the order dated 27.06.2024, whereby the prayer of the petitioner for grant of bail was rejected.

Perusal of the said order reflects that the learned trial court has rejected the prayer of bail apprehending that since the petitioner has failed to appear, he may evade the proceeding. The second ground for rejection of bail was that the interim compensation directed by the learned trial court under its order dated 26.04.2023 has also not been complied by the petitioner.

This court is of the view that since the petitioner is not a habitual defaulter and had absented himself only on one date and also given an explanation for such non-

appearance, the petitioner should be released on bail inasmuch the learned Senior counsel has assured this court on instruction that the petitioner will not default in appearing before the learned court below in future.

In view of the aforesaid, this court is of the opinion that no further custodial interrogation/ detention of the petitioner is required. Accordingly, it is directed that the petitioner, above named, in connection with the aforementioned case be released on bail on his furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety of the like amount to the satisfaction of the learned Civil Judge (Jr) Division cum JMFC No. 3, Kamrup (M) with the condition that petitioner shall appear before the learned trial court on each and every date as fixed by the learned trial court.

Bail application stands disposed of.

JUDGE

Comparing Assistant