

GAHC010136182024



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

Case No. : Bail Appln./1979/2024

HABIL AHMED AND ANR
SON OF LATE SUKUR ALI, RESIDENT OF REGENT PARADISE, FLAT NO. A3,
POLICE STATION HATIGAON, GUWAHATI, DISTRICT- KAMRUP (METRO),
ASSAM PIN 781028

2: SRI SIMANTA CHOUDHURY
SON OF SRI KAMINI CHOUDHURY
RESIDENT OF REGENT PARADISE
FLAT NO. 2B
5TH FLOOR
POLICE STATION HATIGAON
GUWAHATI
DISTRICT- KAMRUP (METRO)
ASSAM PIN- 78102

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. A LAL

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 18.07.2024

Heard Mr. A. Lal, learned counsel for the accused and Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. This petition, under Section 439 Cr.P.C. is preferred by two accused, namely, Habil Ahmed and Simanta Choudhury, who have been languishing in jail hazot in connection with Cyber P.S. Case No. 12/2023, under Sections 120B/419/420/409/468/471 of the IPC, read with Sections 66C/66D of the Information and Technology Act, 2000 for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Papu Gogoi, ACS, Circle Officer, Dispur Revenue Circle on 02.11.2023. The essence of allegation made in the FIR dated 02.11.2023, is that it came to his notice that a mutation order was passed online in Dharitree Portal on 05.10.2023, in case No. MET/Dis/2022-23/96042/OMUT, against a deed, bearing Serial No. 6268, dated 31.12.1995, wherein no offline case record of issuance of any notice, order etc. was found in the office of the informant.

4. Mr. Lal, the learned counsel for the accused submits that both the accused were arrested on 11.06.2024, and since then, they are behind the bar for last 37 days and as per the forwarding report, dated 14.06.2024, the interrogation in respect to the present accused persons have already been completed and some of the accused persons have also been granted bail by this Court and also by the learned Additional Sessions Judge (FTC) No. 4, Kamrup(M), and that the accused are not named in the FIR also, and they are also ready to cooperate

with the investigating agency, and therefore, it is contended to allow the petition. Mr. Lal has also produced some orders granting bail to some of the co-accused.

5. On the other hand, Mr. P.S. Lahkar, learned Addl. Public Prosecutor has vehemently opposed the petition and submits that at this stage, only the case diary may be called for.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the order dated 03.04.2024 passed in AB No. 817/2024, order dated 09.04.2024 passed in Bail Appln. No. 943/2024, order dated 08.04.2024 passed in AB No. 741/2024, order dated 16.02.2024 passed in Bail Appln. 420/2024 of this Court and also the order dated 15.05.2024 in AB No. 133/2024 passed by the learned Additional Sessions Judge (FTC) No. 4, Kamrup(M), so produced before the Court by the learned counsel for the accused persons.

7. It is not in dispute that both the accused persons were arrested on 11.06.2024, and thereafter, they were taken into police custody for three days and thereafter, remanded to jail hazot w.e.f. 14.06.2024. It also appears from the forwarding report dated 14.06.2024, that the accused persons were thoroughly interrogated and further, it appears that they are languishing in jail hazot for last 37 days.

8. In view of the period of detention and also considering the submission of learned Advocates of both sides, further custodial detention of the accused persons seems to be not warranted here in this case and therefore, this Court is inclined to allow the petition. It is provided that on furnishing a bond of Rs. 50,000/- each, with one surety of like amount, to the satisfaction of the learned CJM, Kamrup(M), both the accused be enlarged on bail.

9. In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant