GAHC010137752024

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

Case No. : Bail Appln./2009/2024

JULHAS ALI
S/O LT. BILAT ALI,
R/O KANDHABARI, P.S.- MUKALMUA, DIST.- NALBARI, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR S AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 19.07.2024

Heard Mr. K. Thakur, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 483 of the Bharatiya Nagarik Suraksha

Sanhita, 2023 (BNSS) praying for grant of bail to the accused/petitioner, who has been arrested in connection with Basistha P.S. Case No. 287/2024, under Sections 380/457 of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Thakur, learned counsel appearing on behalf of the petitioner, that the present accused/petitioner is innocent and he was shown arrest in connection with this case on 10.06.2024 and hence, the question of recovery from his possession is not arise at all. More so, he was arrested in connection with Hatigaon P.S. Case No. 86/2024 and then Hatigaon P.S. Case No. 87/2024, wherein also, he was also under police custody for a considerable period and thereafter he was enlarged on bail. He further submitted that there is no mention about the timing of the incident, though the case has been registered under Section 457 of the Indian Penal Code. Accordingly, he submitted that further custodial interrogation of the present accused/petitioner may not be necessary for the interest of investigation. However, he is ready and willing to appear before the learned Court below to contest the case if he is granted with the privilege of bail.

In this context, Mr. Borthakur, learned Additional Public Prosecutor, has submitted that in all 3 (three) cases, i.e. Hatigaon P.S. Case No. 86/2024, Hatigaon P.S. Case No. 87/2024 and in the instant case, the *modus operandi* is same and the accused/petitioner, along with others, used to loot or rob the houses when the family members are absent from their houses and in the same locality. However, he submitted that there is no recovery from the possession of

the present accused in connection with the present accused, though some recovery was made by police in earlier 2 (two) cases, i.e. Hatigaon P.S. Case No. 86/2024, Hatigaon P.S. Case No. 87/2024. He further submitted that it reveals from the Case Diary that the accused/petitioner is enlarged on bail in connection with Hatigaon P.S. Case No. 86/2024, Hatigaon P.S. Case No. 87/2024, however the case is still under investigation and till date, nothing has been recovered from the possession of the present accused/petitioner. He further submitted that from the record as well as from the Case Diary, it is also seen that the prayer for police remand was rejected by the learned Court below as the I.O. was not present. However, the liberty was granted to the I.O. to interrogate the accused/petitioner in the jail premises itself for 3 (three) hours each for 5 days.

However, in reply, Mr. Hussain, learned counsel for the petitioner, submitted that no interrogation was made in the jail premises in spite of the said direction of the learned Court below.

Considering the submissions made by the learned counsels for both sides and also considering the entire aspects of the case, without going by the merit of the case and only considering the length of detention, I am of the view that the I.O. has got ample opportunity to interrogate the accused/ petitioner keeping him in custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, the accused/petitioner, namely, Julhas Ali, be enlarged on bail, subject to the

following conditions:

(i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;

(ii) 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

(iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, without prior permission.

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

JUDGE

Comparing Assistant