

GAHC010141382024



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

Case No. : Bail Appln./2070/2024

ABDUL BASHIT
S/O ABDUL KALAM
R/O DAKSHINTEZPUR
P.O. KOTAMANI
P.S. BAZARIHERRA
DIST.KARIMGANJ, ASSAM
PIN-788728.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M H RAJBARBHUIYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 22.07.2024

Heard Mr. M. H. Rajbarbhuiyan, learned counsel of the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor representing the

State respondent.

2. This application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is preferred by the accused/petitioner, namely, Abdul Bashit, who has been languishing in jail hazot since 03.05.2024 in connection with Bazaricherra P.S. Case No.39/2012 corresponding to Sessions Case No.50/2013, registered under Sections 342/325/376(g)/34 of the Indian Penal Code.

3. It is submitted by the learned counsel for the petitioner, Mr. Rajbarbhuiyan that the accused/petitioner is innocent and he is no way connected with the alleged offence. He contends that after obtaining bail, the petitioner regularly appeared before the learned Trial Court, but subsequently changed his address to earn a livelihood. However, on 21.06.2024, this Court cancelled his earlier bail bond and declared him an absconder, citing his failure to cooperate with Court proceedings. It is further submitted that the petitioner was misled by his engaged counsel, who informed him that according to the CIS, the case had been closed. Acting on this advice, he did not appear before the Trial Court. Subsequently, on the strength of the NBWA issued by the Trial Court against the accused/petitioner, he was arrested on 03.05.2024 and since then, he is behind the bar.

4. The petitioner further submits that some prosecution witnesses (PWs) have already been examined, and from the Trial Court's order, it is evident that PW Nos. 2 and 3, who are vital witnesses, did not mention the petitioner's name. It is also submitted that the petitioner's family and the informant are well-known to each other and are acquainted.

5. He further submitted that the petitioner's mother and wife are seriously ill,

and there is no one to look after their two minor sons. Medical documents are submitted for his mother, who is suffering from a stomach disease, and his wife, who is undergoing treatment for a Cerebro Vascular attack and she is not in a position to move for treatment in Silchar in the absence of her husband/petitioner. Therefore, considering the health conditions of his mother and wife, it is prayed that the accused/petitioner be granted bail and further he is ready and willing to appear regularly before the Trial Court, if he is enlarged on bail.

6. On the other hand, Mr. Borthakur, learned Public Prosecutor, has submitted that the accused/petitioner has been absconding since 2014, which has delayed the case for disposal, and also his previous conduct cannot be denied at this stage. Accordingly, he raised objection in granting bail to the accused/petitioner.

7. After hearing the submissions made by the learned counsels for both sides, as well as the illness of the accused/petitioner's mother and wife, along with other aspects of the case, I find it prudent to grant bail to the accused/petitioner, with a direction to appear before the learned Trial Court on each date fixed.

8. Accordingly, it is provided that on furnishing a bond of Rs. 30,000/- (Rupees Thirty thousand) only with two sureties of like amount to the satisfaction of the learned District and Sessions Judge, Karimganj, the accused/petitioner, namely, **Abdul Bashit**, be enlarged on bail, subject to the following conditions:

- (i) 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

- (ii) that the petitioner shall not leave the jurisdiction of the learned District and Sessions Judge, Karimganj, without prior permission.

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

JUDGE

Comparing Assistant