

GAHC010143542024



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

Case No. : Bail Appln./2101/2024

JEHERUL ISLAM
S/O AINUDDIN ALI, R/O BOLIAPARA (NO. 3 KANDHBARI), P.S.-
MUKALMUA, DIST- NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

23.07.2024

Heard Mr S Munir, learned counsel for the petitioner, Jeherul Islam, who has filed this application under Section 483 of the BNSS, 2023, with prayer for bail, as he is behind bars since 30.06.2024, in connection with Jagiroad PS Case No. 95/2024, under Section 392 IPC and added Sections 395/399/412 IPC.

2. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam, who has raised objection stating that this petitioner along with the co-accused who have been apprehended in connection with this case have been operating as a gang of dacoits. The petitioner is not entitled to bail. The staggering magnitude of the offence does not entitle the petitioner to bail. Investigation will be adversely affected if the petitioner is admitted to bail.

3. The learned counsel for the petitioner has submitted that the forwarding report clearly reveals that the petitioner is not liable for offence under Section 397 of the IPC, or under Section 392 of the IPC. At best, the petitioner is liable under Section 211 of the IPC or under Section 411 of the IPC and the petitioner deserves bail.

4. The FIR unfolds that on 11.05.2024 at around 6:00 AM, the complainant was informed by the owner of the vehicle bearing registration No. AS/01HC/7609 that the vehicle has been hijacked from Bhumuraguri, Jagiroad by some unknown culprits from the possession of the driver. The approximate value of the loaded articles would be Rs.11,35,863/- (Rupees Eleven Lacs Thirty Five Thousand and Eight Hundred Sixty Three). Later on, the driver of the hijacked vehicle Md. Sahajamal Sheikh was recovered by the Khetri Police Station and Jagiroad Police and when confronted the driver stated that on 11.05.2024 at about 1:30 PM he parked his vehicle at Bhumuraguri, Jagiroad, when two unknown miscreants waylaid him and took him towards Khetri and thereafter, the miscreants had taken away the vehicle.

5. The petitioner has prayed for bail on the ground of parity as co-accused have been enlarged on bail by this Court vide order dated 25.06.2024, in connection with Bail Application No. 1760 of 2024, order dated 28.06.2024, in connection with Bail Application No. 1796 of 2024 and order dated 28.06.2024 in connection with Bail Application No. 1779/2024.

6. I have considered the length of detention and the submission that the petitioner is willing to cooperate with the remaining part of investigation.

7. It appears that investigation may have presumably progressed to a considerable extent.

8. I have considered the submission that the petitioner is willing to abide by any stringent bail conditions, if imposed upon him.

9. The petitioner is a local resident and he is not a flight risk.

10. It appears that further custodial detention may not be required for the progress of investigation.

11. In view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/-, with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Morigaon, under the conditions that:-

- i) the petitioner shall refrain from such activities with which he is alleged,
- ii) the petitioner shall cooperate with the investigation, and

- iii) the petitioner shall not leave the jurisdiction of the Court, without prior permission.

On breach of any of the conditions, this bail order shall automatically stand cancelled.

12. With the above directions, this bail application stands disposed of.

JUDGE

Comparing Assistant