

GAHC010154032024



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

Case No. : Bail Appln./2235/2024

BISHWAJIT NATH
S/O DHRUW KUMAR NATH, VILL- SIDHABARI, P.S.-MATIA, DIST-
GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR G SAHU, R BARMAN, L HANGZO, MR. S A HUSSAIN, MR D J HALOI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

09.08.2024

Heard Mr. G. Sahu, learned counsel for the petitioner and Mr. D. P. Goswami, learned Additional Public Prosecutor.

By filing this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Bishwajit Nath**, have prayed for grant of bail in connection with **Dhupdhara P.S. Case No.09/2024** under Sections **120B/336/34 IPC r/w Section 4/5 of Explosive Substance Act**.

It is submitted by the learned counsel for the petitioner that the accused

petitioner has been languishing in judicial custody for last 71 days since his arrest on 30.05.2024. It is further submitted that as per Section 5, the mandatory period of detention is 60 days. According to learned counsel for the petitioner, the petitioner has been falsely implicated in this case and considering the length of detention, prayer for bail may be considered.

Mr. D. P. Goswami, learned Additional Public Prosecutor has produced the case diary and submitted that the petitioner is the owner of the vehicle from which 2356 numbers of suspected Gelatin stick, 1800 numbers of suspected Detonator in 36 bundle, 4 bundles of safety fuse and 1 number of Exide battery were recovered. FSL report shows that the seized items are all explosive materials. However, he has made objection in granting bail to the petitioner.

I have considered the submission of the learned counsel for both the parties. As per Section 5(a) and 5(b) it appears that:

“(a) the expression “explosive substance” shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement;

(b) the expression “special category explosive substance” shall be deemed to include research development explosive (RDX), penta erythritol tetra nitrate (PETN), high melting explosive (HMX), tri nitro toluene (TNT), low temperature plastic explosive (LTPE), composition exploding (CE) (2, 4, 6 phenyl methyl nitramine or tetryl), OCTOL (mixture of high melting explosive and tri nitro toluene), plastic explosive kirkee -1 (PEK-1) and RDX/TNT compounds and other similar type of explosives and a combination thereof and remote control devices causing explosion and any other substance and a combination thereof which the Central Government may, by notification in the Official Gazette, specify or the purposes of this Act.”

It transpires that the substance recovered from the vehicle of the petitioner is

not special category explosive substance wherein mandatory period of custody is 90 days.

In view of the above submission of learned counsel for both the parties and considering the length of detention, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary in the interest of investigation of the case.

Accordingly, the petitioner, named above, shall be released on bail, on furnishing bail bond of **Rs.50,000/-** with **one suitable surety** of the like amount, to the satisfaction of learned **Chief Judicial Magistrate, Goalpara.**

The direction for bail is further subject to the conditions that the petitioner:

- (a) shall not leave the territorial jurisdiction of learned Chief Judicial Magistrate, Goalpara without prior written permission from him/her;
- (b) shall not hamper with the investigation, or tamper with the evidence of the case;
- (c) 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.

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

Case diary be returned back.

JUDGE

Comparing Assistant