

GAHC010155582024



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

Case No. : Bail Appln./2282/2024

MOFIZUL HOQUE
S/O FOYAZ ALI, R/O VILL- BASHANI CHAR, P.S.-DHUBRI, DIST- DHUBRI,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR F HAQUE, MR A ISLAM, MR. S K M ALOMGIR

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 09-08-2024

- 1.** Heard Mr. F. Haque, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Addl. PP, Assam.
- 2.** This application under Section 483 of the BNSS, 2023 has been filed by the petitioner, namely, Mofizul Hoque who has been detained behind bars since

21.07.2024 (for last 21 days) in connection with Gauripur P.S. Case No. 139/2024 under Sections 419/395/399/412/120(B) of the Indian Penal Code.

3. The gist of accusation in this case is that on 24.05.2024 one Rafique Ali has lodged an FIR that on that day at about 12:50 AM 6 unknown persons carrying arms and wearing police uniforms (one of them in civil dress) came to the residence of the first informant and identified themselves as police and threatened the first informant and thereafter they looted golden ornaments valued about 5 lacs as well as cash of Rs. 10,000/- and some other articles. On the basis of the said FIR the Gauripur P.S. Case No. 139/2024 was registered.

4. Learned counsel for the petitioner has submitted that the petitioner was an innocent person and he is a boat-man by profession and it is also submitted by learned counsel for the petitioner that the petitioner has been behind the bars for last 21 days. However in the meanwhile, four of the co-accused who were arrested in connection with the case had already been released by the Court of learned Additional Sessions Judge, Dhubri.

5. Learned counsel for the petitioner has submitted that the co-accused Anar Ali Khan and Azad Ali Khan, Rejjak Alom and Ibrahim Ali are already released on bail.

6. On the other hand, learned Addl. PP has produced the Case Diary of Gauripur P.S. Case No. 139/2024 and has submitted that the present petitioner used to assist the other accused in commission of dacoity by assisting them to cross the Brahmaputra by the engine run boat which he is to operate. However, he submits that the petitioner has been thoroughly interrogated and his statements are also recorded by the investigating agency.

7. I have considered the submissions made by learned counsel for both the

sides. Considering the submissions made by learned counsel for the parties as well as considering the fact that the investigation has fairly completed and also considering the fact that some of the co-accused are in the meanwhile already allowed to be released on bail, this Court is of the considered opinion that if the petitioner co-operates in investigation, his further custodial detention may not be necessary for fair consideration of investigation in Gauripur P.S. Case No. 139/2024.

8. In view of above, the above-named petitioner is allowed to go on bail of Rs. 30,000/- with one surety of like amount subject to satisfaction of the learned Chief Judicial Magistrate, Dhubri with following conditions:

i. That the petitioner shall appear and cooperate in the trial pending against him before the Trial Court.

ii. That the petitioner shall not directly or indirectly make any inducement, threat, or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts before the Trial Court.

9. With the above observations, the bail application is accordingly disposed of.

JUDGE

Comparing Assistant