GAHC010163842024

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

Case No. : Bail Appln./2432/2024

BABUL UPADHYA
S/O LT. JIBA KANTA UPADHYA, VILL- DIRGHA MAJGAON, P.O.- NO. 2
BUKANALA, P.S.-BOGINADI, DIST- LAKHIMPUR, ASSAM, PIN-787001

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S K SINGHA, MR. M K DUTTA,MR. M K NEOG

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

19.08.2024

1. Heard Mr. S. K. Singha, learned counsel for the petitioner Babul Upadhya.

2. The petitioner has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for bail as he is behind bars since 23.07.2024 in connection with North Lakhimpur Police Station Case No.

196/2024 corresponding to GR No. 521/2024 under Sections 61(2)/306/112(1) of the BNS.

3. Heard Mr. R. R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State.

4. The FIR unfolds that the informant noticed some goods were missing from the godown of which he was incharge. On 20.07.2024 at about 8 p.m., a large number of electronic goods were recovered, and on receiving such information, the police came to the spot and noticed that some of the goods stolen were materials belonging to the business enterprise which was stored in the godown of which the informant was incharge. Later, it was learned that the accused No. 1 was involved in the theft of the goods which was recovered from the present petitioner.

5. It is submitted on behalf of the petitioner that the petitioner is not the accused No. 1. The accused No. 1 who has committed the theft of goods have given the articles to the petitioner. The petitioner was not aware that the articles were stolen goods and he had accepted the goods.

6. Learned Additional Public Prosecutor has raised objection for granting of bail without going through the Case Diary.

7. I have considered the submissions at the Bar. The petitioner is behind bars since 20.07.2024.

8. Investigation may have presumably progressed to a certain extent. It appears that custodial detention may not be required for progress of investigation. The petitioner is a local resident and he is not a flight risk. The petitioner is willing to cooperate with the remaining part of the investigation.

9. In view of my foregoing discussions, petition is allowed. The petitioner shall

be enlarged on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with a suitable surety of like amount to the satisfaction of the learned CJM, North Lakhimpur, Lakhimpur under the conditions that:

(i) The petitioner shall refrain from such activities with which he is alleged,

(ii) The petitioner shall appear before the Investigating Officer every fortnight till completion of the investigation, and

(iii) The petitioner shall not leave the jurisdiction of the Court without prior permission.

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

JUDGE

Comparing Assistant