

GAHC010170642024



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

Case No. : Bail Appln./2528/2024

MD MOFIDUL ISLAM
S/O MD. MAHAMMAD ALI, R/O VILL- MOHGHULI, P.O.-SALMORA TINIALI,
P.S.-NORTH LAKHIMPUR, DIST- LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 10.09.2024

- 1)** Heard Mr. B. Choudhury, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State of Assam.
- 2)** This application under Section 483 of the BNSS, 2023 has been filed by the petitioner MD Mofidul Islam, who has been detained behind the bars since 22.07.2024 (for last 51 days) in connection with North Lakhimpur P.S. Case No.195/2024 under Sections 61(2)/318(4)/179/180/112 of the Bharatiya Nagarik Sanhita, 2023.

3) The gist of accusation in this case is that on 21.07.2024, one Bitupon Gogoi had lodged an FIR before the Officer In-Charge of North Lakhimpur Police Station, *inter-alia*, alleging that after receiving the credible information through secret sources, a search operation was conducted at village Pub Pandhowa, North Lakhimpur and one boat shaped of fake gold along with suspected fake Rs.500/- notes were recovered from one MD Sahabul Islam. The said Sahabul Islam was arrested and during interrogation, he disclosed that he had received the seized materials from the present petitioner.

4) The learned counsel for the petitioner has submitted that the petitioner is no way involved in the offence alleged in the FIR and nothing was recovered from his possession.

5) It is also submitted by the learned counsel for the petitioner that the petitioner has been arrested only on the basis of mere suspicion. He has also submitted that the petitioner has been behind the bars for last 51 days and considering the length of detention, the petitioner may be allowed to go on bail. He also submits that the petitioner is ready to co-operate with the Investigating Officer.

6) On the other hand, learned Additional Public Prosecutor has opposed the grant of bail to the petitioner on the ground that the co-accused from whose possession the fake Indian currencies were recovered has implicated the petitioner in his statement.

7) Moreover, it was also found that the petitioner is also earlier involved in similar cases and was also arrested in North Lakhimpur P.S. Case No.557/2022 as well as North Lakhimpur P.S. Case No.192/2023.

8) I have considered the submissions made by the learned counsel for both the sides and have perused the Case Diary of Lakhimpur P.S. Case

No.195/2024.

9) It appears that the petitioner has been detained behind the bars for 51 days and at this stage, apart from the statements of the co-accused MD. Sahabul Islam, there is no other incriminating materials against the petitioner on record.

10) Considering the above facts, his further custodial detention was not appeared to be justified.

11) In view of the above, the petitioner MD Mofidul Islam is allowed to go on bail of Rs.30,000/-(Rupees Thirty thousand only) with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Lakhimpur, subject to the conditions that:-

(I) the petitioner shall co-operate in the investigation.

(ii) the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

12) This bail application is accordingly disposed of.

13) Send back the Case Diary.

JUDGE

Comparing Assistant