

GAHC010170962024



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

Case No. : Bail Appln./2520/2024

NAZRUL MIYAH
S/O LATE ALAM MIYAH, R/O LALPAHAR GAON, NEAR CHANDRAMA
WEIGHT BRIDGE, P.S.-LEKHAPANI, DIST- TINSUKIA, ASSAM-786182

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MR P DOLEY, MR S Z AHMED, MR
H AGARWAL, MRS J M KONWAR

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

21.08.2024

1. Heard learned Senior Counsel Mr. B. D. Konwar for the petitioner Nazrul Miyah.
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

30.07.2024 in connection with Lekhapani Police Station Case No. 35/2024 under Sections 303(2) of the BNS read with Section 4(1)(A)/21 of the Mines and Minerals Act read with Section 3 of the Prevention of Damage to Public Property Act.

3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State.

4. The FIR unfolds that on 16.07.2024, two coal depots in Lalpahar area were sealed by the District Administration and subsequently handed over to the informant i.e., the Senior Geologist in the Office of the Resident Geologist, Directorate of Geology and Mining, Assam. The custody of the seized coal was handed over and the informant lodged an FIR for further investigation and the seizure of coal stocks if any illegality or discrepancy was found in procurement or stock.

5. It is submitted on behalf of the petitioner that the petitioner is the sole bread winner of his family and his wife is currently undergoing treatment. Annexure-A is the medical document submitted relating to the treatment of his wife. The petitioner was arrested and forwarded in connection with this case. It is submitted that periodic detention is not required as the petitioner is behind bars since 30.07.2024.

6. On the contrary, the learned Additional Public Prosecutor has submitted that there are allegations against the petitioner and investigation will be adversely affected if he is admitted to bail.

7. I have considered the length of detention. Investigation may have presumably progressed to a certain extent. It appears that further custodial detention may not be required for the progress of investigation.

8. Considering all aspects, 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 Elaka Magistrate under the conditions that:

- (i) The petitioner shall refrain from such activities with which he is alleged,
- (ii) The petitioner shall co-operate with the remaining part of the investigation,
- (iii) The petitioner shall appear before the Investigating Officer every fortnight and co-operate with the investigation,
- (iv) The petitioner shall not temper with the evidence, and
- (v) The petitioner shall not leave the jurisdiction of the Court without prior permission.

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

JUDGE

Comparing Assistant