

GAHC010179032024



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

**Case No. : Bail Appln./2632/2024**

RAKESH GOWALA  
S/O LATE KARTIK GOWALA, R/O HOUSE NO. 12, KUSHAL KONWAR PATH,  
AMBARI, P.S.-FATASIL MABRI, DIST- KAMRUP (M), ASSAM, PIN-781025

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : MR. K N CHOUDHURY, MS. L WANGSA, MS A DAS, MR. T DEURI

**Advocate for the Respondent** : PP, ASSAM,

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**11.09.2024**

1. Heard Mr. K.N. Choudhury, learned Senior Counsel, assisted by Mr. T. Deuri, learned counsel for the petitioner. Also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor appearing for the State of Assam.
2. This application under Section 483 of the BNSS, 2023 has been filed

by the petitioner, namely, Sri Rakesh Gowala, who has been detained behind the bars since 23.08.2024 in connection with Fatasil Ambari P.S. Case No. 226/2024 under Section 61(2)(a)/306/317(4)/317(5)/3(6) of the BNS, 2023.

3. The gist of accusation in this case is that on 23.08.2024, one Jalilur Rahman, Assistant Sub-Inspector of Police of Fatasil Ambari Police Station had lodged an FIR before the Officer-In-Charge of Fatasil Ambari Police Station, inter alia, alleging that some vehicles which were seized in connection with different cases by Fatasil Ambari Police Station and were kept in the field of Tribal Development Authority, located about hundred metres away from the Police Station were found missing. It is also stated in the FIR that one Paresh Doley, who is the Chowkidar of the said field, came to the said field, along with two traffic personnel and sold the vehicles to some scrap dealers.

4. It is also stated in the FIR that on getting the information, the said Paresh Doley was apprehended and during interrogation, he gave a list of seized vehicles as mentioned in the FIR and has stated that he has sold the said vehicles which were old vehicles to one Ratul Kakati and Rakesh Gowala (the present petitioner).

5. It is also stated in the FIR that later on, it came to light that said Rakesh Gowala is not the Chowkidar of the field, but was serving as Upper Division Assistant of the Tribal Development Authority.

6. The learned Senior Counsel for the petitioner has submitted that regarding the said seized vehicles which were old vehicles, as he was informed by the co-accused Paresh Doley, that a decision has been taken by the Police Department to dispose of the old vehicles which are kept in the field. He also submits that he was also informed by the co-accused Paresh Doley that the In-

Charge of Traffic Branch of Fatasil Ambari Police Station, namely, Mir Hussain has specifically asked him about the order passed by the Police Department.

7. It is also submitted by the learned Senior Counsel for the petitioner that an order to that effect was also shown to him by the said Paresh Doley.

8. It is further submitted by the learned Senior Counsel for the petitioner that believing the statement of Paresh Doley and on a bonafide belief, the petitioner purchased those vehicles at a fixed price of Rs. 3,90,000/- and out of which Rs. 3,00,000/- was paid in cash and remaining Rs. 90,000/- was paid through net banking to Paresh Doley.

9. The learned Senior Counsel for the petitioner has also submitted that the petitioner never disbelieved the statement made by the said Paresh Doley as the transportation of the scrap vehicles was carried out in the day light for six days from 08.07.2024 till 13.07.2024 and though the field where the vehicles were kept is situated only at a distance of 100 metres. None of the police officials from the Fatasil Ambari Police Station ever questioned neither the petitioner nor his men, agents or labourers regarding the work of cutting, loading and transportation of the seized vehicles.

10. The learned Senior Counsel for the petitioner has submitted that the petitioner has not denied that he has not purchased the vehicles, and he is ready to explain his circumstances and co-operate with the Investigating Officer in the investigation. However, he has been detained behind the bars since last 20 days. It is submitted that his further custodial detention may not be necessary. Hence, he prays for allowing the petitioner to go on bail.

11. On the other hand, the learned Additional Public Prosecutor has produced the case diary of Fatasil Ambari P.S. Case No. 226/2024. He has also

produced a report dated 11.09.2024 by the Officer-In-Charge of Fatasil Ambari Police Station in compliance to the directions made by this Court, by order dated 06.09.2024. By the said order, a query was posed as to why the case diary does not reflect as to how in the broad day light, the large numbers of seized vehicles which were seized by police and kept in an open field were cut, loaded and transported without being noticed by police person. On perusal of the report, it appears that the Officer-In-Charge of Fatasil Ambari Police Station has stated that as the said vehicles were seized about 20-25 years ago, and the same were kept in the field of Assam Tribal Development Corporation Ltd. and the same was looked after by accused Paresh Doley and therefore, police never doubted and have faith on him.

12. It is also stated by the Officer-In-Charge of Fatasil Ambari Police Station that the field is not visible from the Police Station. Though a report furnished by the Officer-In-Charge of Fatasil Ambari Police Station is not at all satisfactory and it does not explain the reasons properly as to why the loading, cutting and transportation of seized vehicles could not be noticed by the police personnel of the Police Station which was located about 100 metres away from place where the seized vehicles were parked, however, it is apparent from the report that even the police relied upon the co-accused Paresh Doley, who had given assurance to the present petitioner that he was informed by the In-Charge of Traffic, namely, Mir Hussain, regarding disposal of the seized vehicles. The petitioner has not denied the allegations in his bail application and he has admitted that he has purchased the seized vehicles. He has only explained the circumstances under which he has purchased the seized vehicles. Though learned Additional Public Prosecutor has submitted that three of the co-accused, namely, Madan Mandal, Kulen Gogoi and Ratul Kakati are yet to be

apprehended, however, this Court does not find any reason as to how the continued detention of the present petitioner, who is ready to co-operate in the investigation would help in the apprehension of those co-accused who are yet to be apprehended. The statement of the present petitioner under Section 180 of BNSS has been recorded. It also appears that the investigation against involvement of SI Mir Jahan Hussain, is going on. This Court is of considered opinion that on the basis of the materials available on record, as well as facts discussed hereinabove, this Court is of the considered opinion that if the petitioner co-operates with the Investigating Officer in the investigation, his continued detention may not be necessary for fair completion of the investigation of Fatasil Ambari P.S. Case No. 226/2024.

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

- i. the petitioner shall appear before the Investigating Officer every week for next four weeks or till the investigation is completed whichever is earlier; and
- 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 Investigating Officer.

14. With the above observation, this bail application is accordingly disposed of.

15. Send back the case diary.

**JUDGE**

**Comparing Assistant**