

GAHC010186732024



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

Case No. : Bail Appln./2723/2024

RATUL KAKATI
S/O LATE BHABANI CHARAN KAKATI, R/O HOUSE NO. 97, BIRUBARI,
SHANKARPUR, PS. FATASIL AMBARI, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. C K NATH, MR. AJAY SARMA, MR. S MUNIR

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

12.09.2024

- 1.** Heard Mr. S. Munir, learned counsel for the petitioner. Also heard Mr. K. K. Parasar learned Additional Public Prosecutor for the State respondent
- 2.** This application under Section 483 of the BNSS, 2023 has been filed by the petitioner, namely, Ratul Kakati, who has been detained behind the bars since 24.08.2024 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 2.08.2024, 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 (the present petitioner) and Rakesh Gowala

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

6. Learned counsel for the petitioner has submitted that the petitioner is a resident of Fatasil Ambari locality and he was approached by the Chowkidar of the field namely, the co-accused Paresh Doley who had informed him that Police of Fatasil Ambari police station are willing to sell the vehicle of the vehicles which are parked in the field to some scrap dealer and accordingly, the petitioner was requested to arrange for a purchaser.

7. It is also submitted that accordingly, the petitioner introduced the purchaser namely, Rakesh Gowala to the Chowkidar of this field namely, Paresh

Doley.

8. Learned counsel for the petitioner has submitted that the petitioner was under impression that there is an order of the police authority to sell all seized vehicles, which were lying in the field of the Tribal Development Authority

9. Learned counsel for the petitioner has also submitted that in the meanwhile one of the co-accused whom the petitioner had introduced to Paresh Doley namely, Rakesh Gowala has already been allowed to go on bail by this Court by order dated 11.09.2024 in Bail Application No. 2632/2024.

10. He just introduced Rakesh Gowala to Paresh Doley and he never knew that there was no order from the police authority to sell the said scrap vehicles as the cutting, loading and transportation of the scrap vehicles was done in the broad daylight in the open field for six days at a place, which was situated only at a distance of 100 meters and none of the police officials of Fatasil Ambari Police Station ever questioned the cutting, loading and transportation of seized vehicles during this time.

11. Learned counsel for the petitioner has submitted that the petitioner is ready to cooperate in the investigation.

12. On the other hand, learned Additional Public Prosecutor has produced the case diary of the Fatasil Ambari P.S. Case No. 226/2024, and has stated that in the Bail Application No. 2632/2024 filed by the co-accused Rakesh Gowala, a report was called for from the Officer in charge of Fatasil Ambari Police Station and it was reported that the police had faith on said Paresh Doley who used to look after the field of Tribal Development Authority, they never doubted about anything that such kind of thing could happen.

13. It is also submitted by the learned Additional Public Prosecutor that as the field is bounded by a boundary wall with gates and the gates were closed,

when the cutting and loading of 35 numbers of seized vehicles were going on, it never came to notice of the police, during the period when the loading and transportation of the seized vehicle were done.

14. He also submits that though the investigation is also against the Traffic-in-Charge of the police station, namely, S.I. Mir Hussain, no evidence has been collected against him till date. He also submits that the said S.I. Mir Hussain has not been named as an accused till date.

15. It also appears that on perusal of the order dated 11.09.2024 passed in Bail Application No. 2632/2024 that this Court was not satisfied with the report furnished by the Officer-in-Charge of Fatasil Ambari Police Station and considering the fact that there may be involvement of Police Officials of Fatasil Ambari Police Station in the offence alleged in the FIR, hence, the investigation of Fatasil Ambari P.S. Case No. 226/2024, in the considered opinion of this Court needs to be supervised by a senior police official.

16. Hence, Commissioner of Police, Guwahati, is hereby directed to monitor the investigation of Fatasil Ambari P.S. Case No. 226/2024 henceforth, so that it reaches its logical conclusion.

17. So far as the application for bail of the present petitioner is concerned, it appears that the statement of the petitioner under Section 180 of BNSS has already been recorded and if he continues to cooperate with the investigation, his custodial detention may not be necessary for fair completion of the investigation Fatasil Ambari P.S. Case No. 226/2024.

18. In view of above, the above-named petitioner 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, Kamrup, Metro subject to 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.

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 of the case before the Investigating Officer.

19. Let a copy of this order be furnished to the Commissioner of Police, Guwahati for necessary follow-up action.

20. With the above observations, this bail application stands disposed of.

JUDGE

Comparing Assistant