

GAHC010223882024



2024:GAU-AS:13087

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

Case No. : AB/2834/2024

MOHBUBUR RAHMAN @ MAMON AHMED
S/O ABDUL SUKKUR
VILL-KAZIRGRAM, BHANGA P.O. BHANGA
P.S. BADARPUR,
DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM,
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY, A S PRODHANI, S. TALUKDAR

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

20.12.2024

Heard Mr H R A Choudhury, learned Senior Counsel for the petitioner, Mohbubur Rahamn @ Mamon Ahmed, who has filed this application under Section 482 of the BNSS, 2023, with prayer for bail, as he is apprehending arrest in connection with Badarpur PS Case No. 77/2024, under Sections 342/325/364(A)/386/385/341 of the

Indian Penal Code, 1860

2. Heard Mr K K Das, learned Additional Public Prosecutor for the State of Assam.
3. The allegation against the petitioner is that he along with the other accused named in the FIR were involved in forcefully taking Mukkaddes Ali and his driver, driving the vehicle bearing Registration No. AS-15-AC-6585, on 14.03.2024, to a place known as Malua. They were held captive in one room and were asked to find out if any empty vehicle is available. The informant, Mukkades and his driver were threatened with dire consequences. At that time, the driver of Truck No. AS-01-RC 3802, called Mukkades over phone and apprehending danger, Mukkades Ali informed the driver of the vehicle that Truck No. AS-01-RC 3802 was required for loading betel nut. Thereafter, Mukkades along with the driver of the Truck No. AS-01-RC 3802, was taken to a room and forcefully asked to pay an amount of Rs. 85,000/- through PhonePe and cash of Rs. 3,000/- was also robbed from him. The accused named in the FIR, including the petitioner also assaulted Mukkades and his companions with iron rods, sticks etc. This incident of assault was recorded. At around 10:00 pm, the accused persons named in the FIR, including the petitioner used the phone of the driver of the Truck No. AS-01-RC 3802 and persuaded him to call the owner of the vehicle, Momrez Ali, and demanded a ransom of Rs. 6 lacs for his release. On the next day, the petitioner and other accused named in the FIR, took Mukkades Ali and the others to an unknown place in vehicle No. AS-10F-4682. At that time, the driver of Truck No. AS-01-RC 3802, managed to escape.

On the next day, the petitioner and the other accused forcefully got his signatures affixed on a paper, which was written in English.

4. It is submitted on behalf of the petitioner that the allegations brought in the FIR are totally false and not based on fact and records. On that day, two persons named Mukaddas Ali @ Mukadda Mulla, the driver and Mukadda Mulla, the driver and another person loaded the raw betel nuts of the petitioner at Bhanga at Karimganj at 2:00 am at night and then set out towards Barpeta. On reaching Juwai in Meghalaya, they made a call to the petitioner that the custom stopped the vehicle and also informed that the custom demanded Rs. 5 lakhs. On getting their information, the petitioner sent Rs. 2 lacs. After that, they switched off their mobile and the petitioner lost the contact with them. On the next day, the petitioner realized that the drivers robbed the goods and hatched up a conspiracy by providing wrong information in order to embezzle the funds. Thereafter, the petitioner along with the other business partners set out on a frantic search of the miscreants. They also visited the house of the miscreants, but failed to apprehend them. After a few days, the petitioner and other business partners learnt about the movement of the vehicle at Nandapur near Bhanga. Then all business partners stopped them and demanded them to pay back their money. Then they assured the petitioner that they would pay the amount. The informant called another person from Barpeta. As per their

request, they paid Rs. 50,000/- to the account of the petitioner. They paid Rs. 35000/- to one Samim. No cash was paid. About Rs. 12,93000/- has remained unpaid. They made a pact to pay the amount of Rs. 600000/- (Six lacs) only.

5. The learned Additional Public Prosecutor has, however, raised serious objection stating that there are incriminating materials in the Case Diary against the petitioner.

6. The injury report is not received.

7. Learned counsel for the petitioner has submitted that as this is a false case, the informant Mukkades has not sustained any injury and thus, no injury report could be forwarded even after several dates were fixed. The petitioner is willing to cooperate with the remaining part of investigation.

8. I have considered submissions made at the Bar with circumspection.

9. I have considered the submissions on behalf of the petitioner that he is willing to abide by any stringent bail conditions, if imposed upon him.

10. I have also scrutinized the Case Diary.

11. Investigation has progressed to a considerable extent. It appears that custodial interrogation may not be required.

12. Considering all aspects and in view of my foregoing discussions, petition is allowed. In the event of his arrest, the petitioner shall be enlarged on bail of Rs. 50,000/- (Rupees Fifty Thousand Only) with one suitable surety of the like amount to the

satisfaction of the arresting authority, under the conditions that:-

- i) the petitioner shall appear before the IO within one week from today and he shall cooperate with the investigation,
- ii) the petitioner shall refrain from such activities with which he is alleged, and
- iii) the petitioner shall not leave the jurisdiction of the Court, without prior permission.

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

13. Bail Application stands disposed of.

14. Send back the Case Diary.

JUDGE

Comparing Assistant