

GAHC010255052024



2024:GAU-AS:12752

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

Case No. : Bail Appln./3676/2024

HABIBUR RAHMAN
S/O ABDUL HAMAD
VILL- TAPABARI
P.S. HAJO
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR H A AHMED, Z R MANDAL

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

16-12-2024

Heard Mr. H A Ahmed, learned counsel for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2. By this application filed under Section 483 of the BNSS, 2023, the petitioner, namely, **Habibur Rahman**, son of Abdul Hamad, resident of village-Tapabari, P.S.-Hajo, District-

Kamrup is seeking bail in **Azara Police Station Case No. 222/2024**, registered under Section 305 of the BNS, 2023, in which he was arrested on 31.10.2024 and is in custody since then.

3. As per the FIR dated 30.10.2024 lodged by the complainant before the Kahikuchi Borjhar Police Outpost under Azara Police Station, the case is that on the night of 29.10.2024 two thieves in a Bolero Pickup came to his damp to commit theft/steal from his damp and during the process, the complainant along with his wife saw the incident and chased them. During the process they could arrest the petitioner and the other thief Asad Ali fled away with the vehicle bearing Registration No. AS-32-C-0563.

4. Accordingly, Kahikuchi Borjhar Police Outpost GD Entry No. 643 dated 30.10.2024 was made and thereafter, Azara Police Station Case No. 222/2024 was registered under Section 305 of the BNS, 2023.

5. The petitioner was arrested on 31.10.2024 and was produced before the Court of the learned Chief Judicial Magistrate, Kamrup(Metro), Guwahati.

6. Perused the case diary placed before the Court today by Mr. K K Parashar, learned APP, Assam that was called for by the Court on 11.12.2024.

7. It is seen from the case diary that the complainant caught the petitioner red handed while he was trying to steal from his scrap godown and the other accused Asad Ali fled away with the vehicle, noted above.

8. It is also seen from the case diary that the other co-accused, Asad Ali evaded police and is yet to be arrested in the case.

9. Considering the materials in the case diary and the detention of the petitioner since 31.10.2024, this Court is of the opinion that further custodial detention of the petitioner is not warranted to investigate said Azara Police Station Case No. 222/2024. As such, this bail application is accepted.

10. Accordingly, the petitioner, namely, **Habibur Rahman**, son of Abdul Hamad be released on bail in said Azara Police Station Case No. 222/2024 on furnishing bail bond of Rs. 45,000/-, with two local sureties each of the like amount, one of which shall be a Government

Employee, either State or Central Government, to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(Metro), Guwahati, subject to the conditions that petitioner, named above

- i) shall appear before the concerned Investigating Officer of said Azara Police Station Case No. 222/2024, as and when he is required in the said case;
- ii) shall not leave the territorial jurisdiction of Azara Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case;
- iii) shall not hamper with the investigation, or tamper with the evidence of the case;
- iv) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them from disclosing such facts to the Court or to any police officer and;
- v) shall not involve himself in any criminal activities in future.

11. Any violation of the aforesaid terms and conditions by the petitioner, namely, **Habibur Rahman**, the bail granted to him in said Azara Police Station Case No. 222/2024 shall stand automatically vacated.

12. This bail application accordingly stands allowed.

13. Return the Case Diary herewith.

JUDGE

Comparing Assistant