

GAHC010281222023



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

Case No. : Bail Appln./4534/2023

MD. JABED MALIK
S/O LT. RIYAJUDDIN
VILL- MIRAPUR, KHURD, H/NO. 90, KOTLA 2, P.S. MIRAPUR, DIST.
MUZAFFARNAGAR, UTTAR PRADESH.
TEMPORARY ADDRESS- HOUSE NO. 16, SOUTH SARANIA, NEAR GANDHI
MANDAP, P.S.PALTAN BAZAR,
DIST. KAMRUP (M), ASSAM-781008

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. FIRUZ KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 03.01.2024

1. Heard Mr. F. Khan, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

2. This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Md. Javed Malik, who has been detained behind the bars since 14.11.2023 (for the last 50 days) in connection with Noonmati P. S. Case No. 319/2023 under Section 379 of the Indian Penal Code.

3. The gist of accusation against the present petitioner is that on 13.11.2023 one Pankaj Kumar of Choyug Telematic had lodged an FIR before the Officer-in-Charge of the Noonmati Police Station, inter-alia, alleging that one R. R. U. of Airtel Tower (approximate value Rs. one lakh) has been stolen from the work jurisdiction of the first informant i.e. from Geetanagar Bg Road.

4. Learned counsel for the petitioner has submitted that the petitioner deals with scrap materials and the article seized from his possession were all scrap and learned counsel for the petitioner has also submitted that the petitioner has already been detained behind the bars for last 50 days and considering the detention he may be allowed to go on bail.

5. On the other hand, learned Additional Public Prosecutor has produced the case diary of Noonmati P. S. Case No. 319/2023 and has submitted that the stolen article has already been recovered.

6. It is also submitted that the Investigating Officer has already recorded the statement of the present petitioner under Section 161 of the Code of Criminal Procedure and the investigation has also fairly progressed.

7. Considering the fact of seizure of article alleged to have been stolen and considering the period of detention already undergone by the present petitioner as well as the progress made in the investigation, further custodial detention of the above named petitioner does not appear to be necessary for fair completion of the investigation of Noonmati P. S. Case No. 319/2023.

8. Hence, in view of the 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 subject to the following conditions:

- i. That the petitioner shall cooperate in the investigation;
- 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.

9. With the above observations, this bail application is hereby disposed of.

10. Send back the case diary.

JUDGE

Comparing Assistant