

GAHC010287602023



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

Case No. : Bail Appln./4611/2023

GULAP BARUAH
SON OF SHRI DIMBESWAR BARUAH, RESIDENT OF KADAM BALI GAON,
P.O. KADAM, PIN- 787032, DISTRICT- LAKHIMPUR ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR. P BORDOLOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 03.01.2024

- 1.** Heard Mr. P. Bordoloi, 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, Gulap Baruah, who has been

detained behind the bars since 04.12.2023 (for the last 31 days) in connection with Bihpuria P. S. Case No. 207/2023.

3. The gist of accusation in this case is that one Abdul Safik on 01.12.2023 had lodged an FIR before the In-Charge of the Bandardewa Police Outpost, *inter-alia*, alleging that the owner of the truck bearing registration No. AS01 NC 9041 had sent about 500 cement bags from Dalmia Cement Factory, Lanka to Nirjuli, Arunachal Pradesh for 15 delivery of the said goods within stipulated period of time, however, on 30.11.2023, the aforesaid vehicle was found parked near Bandardewa toll gate and only 140 bags of cement were recovered from the said truck and it is alleged that the driver of the said truck had sold 360 bags of cement which were loaded in the said truck.

4. Learned counsel for the petitioner has submitted that the petitioner has been arrested only on the basis of the statement made by the co-accused. It is also submitted by the learned counsel for the petitioner that the present petitioner has been detained behind the bars for the last 31 days and on the ground of long detention he may be allowed to go on bail.

5. On the other hand, learned Additional Public Prosecutor has produced the case diary of Bihpuria P. S. Case No. 207/2023 and has submitted that the main accused i.e., the driver of the vehicle has implicated the present petitioner. It is also submitted by learned Additional Public Prosecutor that 122 bags of cement were seized from the possession of the present petitioner and the remaining cement bags were already sold out by the petitioner, however, in the meanwhile, the Investigation Officer has already recorded the statement of the present petitioner and other witnesses and the investigation has also fairly progressed.

6. 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 Bihpuria P. S. Case No. 207/2023.

7. 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, Lakhimpur, North Lakhimpur 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.

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

9. Send back the case diary.

JUDGE

Comparing Assistant