

GAHC010288352023



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

Case No. : Bail Appln./4629/2023

NIZAM ALI
S/O BABUL ALI
VILL- KUMARIKATA
P.S. TAMULPUR, ASSAM
PIN NO. 781360
PRESENT ADDRESS-
R/O JATIA BHANGRA
P.O. BAIHATA CHARIALI,
P.S. BAIHATA
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.01.2024

Heard Mr. H.R. Ahmed, learned counsel for the accused and also heard Mr. R.J.

Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Nizam Ali, who has been languishing in jail hazot since 07.12.2023, in connection with Chandmari P.S. Case No.447/2023, under Section 379 of the IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Pulak Roy on 06.12.2023. The essence of allegation made in the aforesaid FIR is that on that day, at about 3:00 p.m., he has parked his bike, bearing Registration No.AS-21K-4940 (Bajaj Pulsar 220) in front of Anchalik Office of the Assam Gramin Vikas Bank situated at Rajgarh Road. But, on returning from the bank, after completion of his office work, he found his bike missing.

4. Mr. Ahmed, learned counsel for the accused, submits that the accused was arrested on 07.12.2023, and since then he has been languishing in jail hazot for last 33 days and that he is no way involved with the offence alleged in the FIR and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the present accused is the owner of the vehicle, bearing Registration No.AS-01DQ-1905, which was used in commission of theft of the aforesaid bike and that the stolen bike is yet to be recovered and therefore, Mr. Baruah has opposed the petition.

6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baruah, learned Additional P.P.

7. In view of the materials collected so far in the case diary and also considering the period of detention i.e. 33 days and balancing the same with the nature and gravity of the offence, this Court is of the view that further custodial detention of the accused is not warranted here in this case and accordingly, this Court is inclined to allow this petition.

8. It is provided that on furnishing a bond of Rs.50,000/- with one surety of the like

amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), the accused be enlarged on bail. Case diary be returned.

9. In terms of above, this bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant