

GAHC010293612023



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

Case No. : Bail Appln./4690/2023

NAZRUL HOQUE MAZUMDAR
S/O MOINUL HOQUE MAZUMDAR
R/O DUDHPATIL PART-V, SILCHAR
P.S.SILCHAR, DIST. CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 24.01.2024

Heard Mr. P. J. Saikia, learned senior counsel, assisted by Mr. S. Islam, learned counsel appearing for the accused petitioner as well as Mr. K. K. Parasar, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Nazrul Hoque Mazumdar**, has prayed for grant of bail in connection with **Basistha P.S. Case No.672/2023** under Sections **120-B/420/511/489-A/489-C** of the IPC.

The case diary, as called for, is placed before the Court.

The accused petitioner has been in judicial custody since 01.11.2023, i.e. for 85 days.

The case of the prosecution is that fake currency and printing machines along with other articles were recovered from the possession of the accused petitioner. Suspecting the accused to be indulged in criminal conspiracy with others with intention to cheat persons by inducing them to deliver property and thereby causing wrongful gain and wrongful loss to others, a complaint was filed. As such, a case was registered.

Mr. P. J. Saikia, learned senior counsel for the petitioner, submits that the accused petitioner was not aware of the seized articles, which were kept in the hotel room from which the same was recovered. He further submits that the accused petitioner booked a room in the hotel for that particular night, details of which are available in the register of the hotel and he was not at all aware of the existence of the seized articles. He also submits that it would be impossible for him to enter into the hotel with such articles/machines without the consent and connivance of the hotel owner or its employees and, therefore, no case is made out. He further submits that the case under Sections 120B/420/511 is based on suspicion and there are no ingredients of Section 489-A made out in the body of the FIR.

Mr. K. K. Parasar, learned Addl. P.P., Assam, on the other hand, strongly opposes the prayer of bail. He submits from the case diary that there are materials available on record implicating the accused for the offence alleged. By relying on the statement of the accused recorded u/s 161 Cr.P.C., he submits that the accused has stated that he has come from Silchar along with the seized articles and by checking in the hotel from which he was arrested, he was looking for customers.

I have considered the submissions made at the Bar and have perused the

materials available on record including the case diary.

It appears that fake currency and articles used for preparation of such fake currency have been recovered from the hotel room, where the petitioner was staying at that night. The statement of the petitioner has already been recorded under Section 161 Cr.P.C. The investigation is going on. The articles have already been seized. The petitioner has been languishing since last 85 days. The petitioner accused person has stated in paragraph 4 under oath that the police have forcefully made him confess about the ownership of the seized articles. Apart from the recovery of the fake currency and the articles, no other adverse findings have been recorded by the Investigating Officer.

That being so, considering the entire aspects of the matter, particularly the length of detention, vis-à-vis Article 21 of the Constitution of India, this Court is inclined to grant bail to the petitioner.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/-** with one surety of like amount to the satisfaction of the **learned C.J.M., Kamrup (M)** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and
- ii) That the accused petitioner 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 him from disclosing such facts to the Police Officer or the Court; and
- iii) That the accused petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission; and
- iv) That the learned Trial Court may impose any additional conditions of

bail if it deems fit to do so at any time while the petitioner is enlarged on bail.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant