

GAHC010007082024



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

Case No. : Bail Appln./149/2024

AZAD HUSSAIN BARBHUIYA
S/O GIASH UDDIN BARBHUIYA VILL. TARAPUR PART IV P.O. KHELMA
TARAPUR P.S SILCHAR DIST. CACHAR ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

23.01.2024

Heard Mr. A.M. Barbhuiya, 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, Azad Hussain Barbhuiya, who has been languishing in jail hazot since 04.01.2024, in connection

with Changsari P.S. Case No.395/2023, under Section 407 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 Ravinder Kumar on 01.12.2023. The essence of allegation made in the aforesaid FIR is that on 18.11.2023, he had despatched consignment of mustered oil to Lanka through Ali Transport, but the said consignment has not yet been received and he also found the mobile phone of the driver switched off and he suspected that the driver has sold the materials elsewhere.

4. Mr. Barbhuiya, learned counsel for the accused, submits that the accused was arrested on 04.01.2024 and since then he has been languishing in jail hazot. Further, Mr. Barbhuiya submits that the accused has purchased mustered oil from the driver directly with the consent of the owner and that the accused could not pay the entire amount in time and therefore, after 14 days the informant has lodged the case against the present accused and that he is ready to cooperate with the investigating agency 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 128 cartoons of mustered oil were recovered from the possession of the present accused and that the I.O. has collected sufficient materials in support of the allegation alleged in the FIR and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates for both 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. The case diary indicates that the I.O. has collected sufficient incriminating materials against the accused and the investigation is going on and the co-accused are yet to be arrested and some of the stolen articles are yet to be recovered. Under the above mentioned facts and circumstances, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused and accordingly, the bail

application stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant