

GAHC010023992024



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

Case No. : Bail Appln./380/2024

KADER ALI
S/O KASHEM ALI
VILL- ANDURJHAR PT.II
P.S. BILASIPARA,
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MD B ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.02.2024

Heard Mr. B. Islam, learned counsel for the accused and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Kader

Ali, who has been languishing in jail hazot since 07.01.2024, in connection with Bilasipara P.S. Case No.04/2024, under Section 365/511/34 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 Mainul Islam on 05.01.2024. The essence of allegation made in the aforesaid FIR is that on 05.01.2024, at about 12:00 p.m. one Afjalur Rahman, Kader Ali, Nuru Mandal, Nur Amin, Jamat Ali, Member and Rohim have stolen the informant Mainul Islam in a car, bearing Registration No.AS-18D-4900 from a petrol pump situated at Hakama and he was recovered by public and handed over to police along with one of the accused.

4. Mr. Islam, learned counsel for the accused, submits that the accused was arrested on 07.01.2024 and for last 43 days he is behind the bar. Mr. Islam further submits that the informant cum victim has already been recovered immediately after the occurrence and the victim himself lodged the FIR with the police station and that further custodial detention of the accused may not be required and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, submits that the investigation is pending for arrest of the co-accused and therefore, Mr. Sarma has opposed 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. Sarma, learned Additional P.P.

7. The case diary indicates that the I.O. has collected some material in support of the allegation made in the FIR. But it also appears that the victim has already been recovered and the present accused is behind the bar for last 43 days and balancing the period of detention with the nature and gravity of the offence, this Court is of the view that further custodial detention of the present accused may not be required in the interest of investigation and therefore, this Court is inclined to allow this petition. It is provided that

on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned S.D.J.M.(M), Bilasipara, in connection with Bilasipara P.S. Case No.04/2024, under Section 365/511/34 IPC, the accused, namely, Kader Ali, be enlarged on bail. Case diary be returned.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant