

GAHC010066122024



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

Case No. : Bail Appln./943/2024

SHAMSUL HOQUE
SON OF LATE AKBAR ALI,
VILL-PATILKUCHI PATHAR,
P.S. BARPETA,
DISTRICT BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N SARKAR

Advocate for the Respondent : PP, ASSAM

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

ORDER

09.04.2024

Heard Mr. P.K. Basu, 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 of the Code of Criminal Procedure, 1973, is

preferred by accused, namely, Shamsul Hoque, who has been languishing in jail hazot since 10.03.2024, in connection with Cyber P.S. Case No.12/2023 under Section 120B/419/420 IPC, read with Section 66C/66D of the I.T. Act along with additional charges under Section 409/468/471 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 Papu Gogoi, Circle Officer, Dispur Revenue Circle, on 02.11.2023. The essence of allegation made in the aforesaid FIR is that it has come to his notice that a mutation order was passed online in Dharitree portal on 05.10.2023 in Case No.MET/DIS/2022-23/96042/OMUT against a deed bearing Sl.No.6268, dated 31.12.1995, wherein no offline case record and also the record of issuing any notice or order so passed was found to be available in his office and from 01.10.2023 to 26.10.2023, there was login/logout history of 52 times from 04.10.2023 to 26.10.2023 with an IP address 10.177.88.65 and 2 times on 10.10.2023 in IP address 10.177.88.58 and the said IP addresses were not from the official list of the 33 operational IP addresses of his office and the aforesaid 2 IP addresses are unauthorised and illegal.

4. Mr. Basu, learned counsel for the accused, submits that the accused was arrested on 10.03.2024 and since then he has been languishing in jail hazot for last 30 days and that some of the co-accused have already been granted bail by this Court and the present accused is ready to cooperate with the investigating agency and therefore, it is contended to allow this 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 same has not been updated since 16.12.2023 and the present accused was arrested on 10.03.2024 and as such, no materials against the present accused is available in the case diary. However, as per instruction from the I.O., Mr. Baruah submits that further custodial detention of the accused is not warranted here in this case.

6. Having heard the submissions of learned Advocates of 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. It appears that the case diary has not been updated since 16.12.2023 and as such, no materials against the present accused is available in the case diary. However, it appears that the accused was arrested on 10.03.2024 and since then he has been languishing in jail hazot for last 30 days.

8. In view of the period of detention and also in view of the fact that some of the co-accused have already been granted bail by this Court after perusing the case diary and also in view of the submission of learned counsel for both the parties, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned C.J.M., Kamrup (M), the accused, namely, Shamsul Hoque, shall be enlarged on bail.

9. In terms of above, this bail application stands disposed of. Case diary be returned.

**Sd/- Robin Phukan
JUDGE**

Comparing Assistant