

GAHC010036312024



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

Case No. : Bail Appln./494/2024

MARKENDEY RAO
S/O LATE BOLORAM RAO
P HOUSING SOCIETY, BYE LANE NO. 3,
ANAND NAGAR, ADABARI TINI ALI,
GUWAHATI-781012,
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.02.2024

Heard Mr. G.N. Sahewalla, learned Senior counsel assisted by Mr. M. Sahewalla,
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 the accused, namely, Markendey Rao, who has been languishing in jail hazot since 18.02.2024, in connection with Basistha P.S. Case No.102/2024, under Section 153(A)/325/385/294/506/34 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 Sasklim Bey on 18.02.2024. The essence of allegation made in the aforesaid FIR is that the friends of the informant, namely, Sarhon Terang, Pratap Sing Teron, Aprilson Enghi and others, who were working in Galaxy Cement, situated at 12 Mile, Jorabat, have not been paid their daily wages by the authority of the said company, specially Babul Ali, who is the Mohorar of the said factory and he demanded huge amount of money for releasing their wages and on that day at about 2:00 a.m. when they have approached for their wages, then they were beaten. As a result of which they sustained grievous injuries and they were also abused by the Manager of the Company targeting the Karbi community and also threatened with dire consequences.

4. Mr. Sahewalla, learned Senior counsel for the accused, submits that the accused is innocent and no way involved with the offence alleged in the FIR and he went to the police station on being called by police in the morning hours and thereafter, he was arrested and forwarded to jail hazot. Mr. Sahewalla further submits that while causing arrest of the accused, the I.O. has not complied with the provision of Section 41A Cr.P.C. and therefore, Mr. Sahewalla contended to enlarge the accused on bail.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that though he was directed to produce the case diary before this Court today, yet, he has not received the case diary, as the I.O. is out of station, but, he obtained verbal instruction from the I.O. concerned in respect of compliance of the provision of Section 41A Cr.P.C. and the I.O. has informed him that the said provision has not been

complied with.

6. Having heard the submission of learned Advocates for both sides, I have carefully gone through the petition and the documents placed on record.

7. It appears that the accused was arrested on 18.02.2024, and since then he has been languishing in jail hazot. The forwarding report which is annexed with the petition as Annexure-II reveals that the provision of Section 41A Cr.P.C. has not been complied with.

8. Having considered above and also having considered the nature and gravity of the offence, 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 C.J.M., Kamrup(M), in connection with Basistha P.S. Case No.102/2024 under Section 153(A)/325/385/294/506/34 IPC, the accused, namely, Markendey Rao, be enlarged on bail.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant