

GAHC010081402024



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

Case No. : Bail Appln./1182/2024

KRISHNA SHARMA
S/O RAMA KANTA SHARMA,
R/O BORABAZAR, NEAR TRINATH MANDIR REST CAMP PANDU, PANDU
P.S.- JALUKBARI, GUWAHATI WEST DIST.- KAMRUP (M), ASSAM PIN-
781012.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MD. M H CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

30.04.2024

Heard Mr. M.H. Choudhury, learned Senior Counsel assisted by Mr. P. Chakraborty, learned counsel for the accused and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused namely, **Krishna Sharma**, who has

been languishing in jail hazot, in connection with the **Jalukbari P.S. Case No. 147/2024**, under Sections 120(B)/406/420 of the IPC, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Dhanjit Kalita, on 20.03.2024. The essence of allegations made in the FIR is that on 19.03.2024, one delivery associate namely, Krishna Sharma along with a customer namely, Jaswant Singh and Darmesh Singh are found to be involved in fraudulent activity, wherein the customer and the associate has switched the items inside a package, which amounts to Rs. 20,09,770/- and the package was brought back to the delivery centre by the associate stating that the customer denied to provide OTP and further the parcel was rejected by the customer (Jaswant Singh and Darnesh Singh) whom the informant assumes to be the same person and he has reason to believe that the delivery associate Krishna Sharma has been involved with the fraudulent activity and act of impersonation.

4. Mr. Choudhury, learned Senior Counsel for the accused submits that the accused was arrested on 20.03.2024, and since he has been languishing in jail hazot for last 41 days. Mr. Choudhury further submits that the maximum period of punishment for the offence under Sections 120(B)/406/420 of the IPC is 7 years and as such, the mandatory period of detention is 60 days. Mr. Choudhury also submits that the accused is innocent and no way involved with the offence alleged in the FIR 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. Sarma, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused and therefore, it

is contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. It appears that the accused was arrested on 20.03.2024, and since then he has been languishing in jail hazot for last 41 days. Further, it appears that the I.O. has collected some incriminating materials in support of the allegation made in the FIR, against the accused. But, it also appears that the material part of the investigation is almost over and in the interest of investigation, further custodial detention of the accused may not be warranted.

8. Having regards to above, especially the period of detention, this Court is inclined to allow this application. And accordingly, it is provided that on furnishing a bond of Rs. 50,000/- only, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup [M] at Guwahati**, the accused be enlarged on bail.

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

10. The case diary be returned.

JUDGE

Comparing Assistant