

GAHC010085762021



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

Case No. : W.P.(Crl.)/4/2021

HAFIKUR ALI
S/O CHAUKAT ALI,
VILL SEMINA, PS PALASHBARI, DIST KAMRUP ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR F KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 11.05.2021

Heard Mr. F. Khan, learned counsel for the petitioner. The Court Master has informed that although a video link had been sent to the learned Govt. Advocate, but none had joined. Therefore, at the request of the Court, Mr. D. Nath, learned Addl. Senior Govt. advocate had appeared through video conference.

This writ petition filed under Section 226 and 227 of the Constitution of India is for

seeking issuance of a writ in the nature of habeas corpus. The petitioner, namely, Hafikul Ali is aggrieved by purported illegal detention of the accused, namely, Hafijur Rahman @ Bindas in connection with Palashbari PS Case No. 56/2021 under Section 379/411 IPC. It is projected in this habeas corpus petition that by order dated 05.05.2021, the learned Judicial Magistrate First Class, Kamrup, Amingaon had granted bail to the accused person, however, by providing the following rider - "It is also to be noted that the bail bond shall be taken only after the completion of quarantine period of the accused, in jail hazut".

Having heard both sides, on examining the materials on record, the Court is inclined to take note of the fact that by order dated 05.05.2021, the learned Judicial Magistrate First Class, Kamrup, Amingaon had granted bail to the accused named above in connection with the aforementioned case. Having granted bail, the said learned Court had no authority in law to refuse acceptance of bail bond. The question whether the accused is to remain in quarantine is a decision which has to be taken by the District Administration and that issue is not required to be dealt with by the Court granting bail as there is no provision in the Criminal Procedure Code to refuse acceptance of bail bond on the said ground.

Accordingly, let a notice returnable on 09.06.2021 be issued.

In the interim, the Court is inclined to stay that part of the order dated 05.05.2021 in connection with Palashbari PS Case No. 56/2021 passed by learned Judicial Magistrate First Class, Kamrup, Amingaon, whereby it was directed that the bail bond shall be taken only after completion of the quarantine period of the accused in jail hazut. As a result of this interim order, the learned Judicial Magistrate First Class, Kamrup, Amingaon is directed to now accept the bail bond of the petitioner.

List on 09.06.2021.

JUDGE

Comparing Assistant