

GAHC040013622022



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

Case No. : BA 111/2022

1:Onyang Chije (Angu)
W/o Shri Duge Angu,
Presently residing at Prem Nagar Colony, PO/PS Naharlagun, District Papum Pare,
Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and Anr.
Through its Public Prosecutor.

2:Khoda Budh
Currently working as P.S.O (Personnel Security Officer) of Shri Ninong Ering
(MLA)
Permanent Resident of Qtr. No. DS 10
Dam Site
PO/PS Naharlagun
District Papum Pare
Arunachal Pradesh

Advocate for the Petitioner : Dicky Panging

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 24.01.2023

Heard Mr. Dicky Panging, learned counsel for the petitioner.

Also heard Ms. Topi Jini, learned Addl. P.P., Arunachal Pradesh, appearing on behalf of Respondent No. 1; and Mr. Rajesh Sonar, learned counsel for Respondent No. 2/complainant.

This is a bail application under Section 439 of the Code of Criminal Procedure, 1973, for enlarging the accused Sri Tanu Chije, who has been under custody since 05.11.2021, on bail, in connection with Sessions Case No. 10/2022 in Naharlagun Police Station Case No. 182/2021 registered u/s. 304-Part-I IPC.

The 1st bail application filed on behalf of the accused, named-above; being BA 58(AP)2022, for enlarging him on bail, was rejected by the Court, vide order, dated 19.07.2022, on the ground that eye-witnesses of the incident have not yet been examined in the Court and if the accused is released before the examination of the eye-witnesses, there is possibility of the accused influencing the prosecution witnesses.

The 2nd bail application being BA 77(AP)2022 filed on behalf of the accused, for grant of bail, was also dismissed by the Court, vide order, dated 22.08.2022, by holding that since the eye-witnesses of the incident have not yet been examined; no new ground for enlarging the accused on bail, has been made. While dismissing the 2nd bail application, the Court had preponed the Sessions Case No. 10/2022 for

examination of the eye-witnesses as expeditiously as possible.

Pursuant thereto, it has been sated that the 4(four) eye-witnesses have been now examined as PWs 3, 9, 10 and 12, respectively.

It is under the aforesaid circumstances, the instant bail application which is the 3rd bail application, has been filed on behalf of the accused, for grant of bail, contending, *inter alia*, that the accused has been in detention since 05.11.2021 and 4(four) eye-witnesses have now been examined, for the non-examination of which witnesses; the earlier bail applications have been rejected by the Court.

I have perused the depositions of PWs 3, 9, 10 and 12 respectively, which have been annexed in this bail application.

Though the accused had been in custody for a relatively long period of time since 05.11.2021, however, after having perused the depositions of PWs 3, 9, 10 and 12 respectively, who are the eye-witnesses of the incident; more particularly, the deposition of PW 9; I am of the considered view that no case for grant of bail of the accused have been made out by the petitioner in the instant bail application and the prayer made on behalf of the accused for release on bail, accordingly, stands rejected.

I have not reproduced or referred to what the aforesaid eye-witnesses, more particularly, PW 9, has deposed, for the reason that recording of what have been deposed by these 4(four) witnesses by this Court, may indicate in some manner or other, the evidentiary value of these 4(four) witnesses, which is entirely within the domain of the learned trial Court.

Needless to say, whatever has been observed hereinabove, is only for the purpose of consideration of the bail application filed on behalf of the accused and the learned trial Court shall conclude the trial as expeditiously as possible without being influenced by the observations made by this Court, hereinabove, in any manner.

The bail application stands dismissed in terms above.

JUDGE

Comparing Assistant