

GAHC010000852023



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

Case No. : Bail Appln./34/2023

NISHANT SHARMA
S/O SRI VIJAY KUMAR SHARMA, R/O MILAN NAGAR, DIBRUGARH, P.O.-
C.R. BUILDING, P.S.-DIBRUGARH, DIST-DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MD. I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

07.02.2023

1. Heard Md. I. Hussain, learned counsel for the petitioner as well as Mr. B.B. Gogoi, learned Addl. P.P. appearing for the State.
2. The petitioner, namely, Nishant Sharma, has filed an application under

Section 439 Cr.P.C. with prayer for bail as he has been languishing in the jail since 09.07.2022 in connection with Sessions P.S. Case No. 349/2022, corresponding Dibrugarh P.S. Case No. 390/2022 under Sections 306/34 IPC.

3. The allegations against the petitioner and his co-accused are that, Vineet Bagaria died as a result of the physical and mental harassment meted out to him by the petitioner and the co-accused persons.

4. Charge-sheet has been laid against the petitioner under Sections 306/34 IPC.

5. I have considered the submissions at the bar.

6. It is submitted on behalf of the petitioner that the absconding accused Azizullah Khan was already granted bail. The petitioner's mother is ailing seriously at present. The petitioner has prayed for bail as he has been languishing in the jail since 07.07.2022.

7. The learned Addl.P.P. has raised objections stating that charge is yet to be framed. Trial may be affected if the petitioner is enlarged on bail.

8. There is every possibility that the petitioner may influence the witnesses.

9. I have perused the scanned copies of the LCR.

10. The petitioner is named in the FIR and the allegation against the petitioner is that he along with his associates which also includes the co-accused named in the FIR threatened the informant's son as well as the informant and his daughter with dire consequences. The co-accused Baidullah Khan used to

exercise threats and he along with Sanjay Sharma illegally occupied the shop premises belonging to the informant. Due to the threats exercised by the petitioner as well as by his co-accused, the deceased Vineet Bagaria was prompted to commit suicide.

11 .It is also submitted by the learned Addl.P.P. that the statements of the witnesses incriminates the petitioner.

12 .I have considered the submissions at the bar.

13 .I have considered the prayer of parity. It is true that there are cogent materials in the case diary against the petitioner and this is the reason why charge-sheet has been laid against him.

14 .I have considered the submissions that the petitioner has pledged to co-operate with the trial.

15.In view of my foregoing discussions, petition is allowed.

16.The petitioner, namely, Nishant Sharma is enlarged on bail in Sessions Case No. 349/2022, corresponding Dibrugarh P.S. Case No. 390/2022 under Sections 306/34 IPC, on furnishing bail bond of Rs.50, 000/- with one suitable surety of like amount to the satisfaction of the trial Court under the conditions that:-

(1)the petitioner will not exercise threats to witnesses; and

(2) the petitioner will not leave the jurisdiction of the trial Court without prior permission.

17.Send back the case diary.

18.The case is disposed of.

JUDGE

Comparing Assistant