

GAHC010002712023



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

Case No. : Bail Appln./81/2023

MRIDUL KR DAS
S/O SRI GHANAKANTA DAS
R/O ANCHALI BADULIPARA
P.S. SIMLA
DIST. BAKSA, ASSAM -781327

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 27-01-2023

Heard Mr. B.D. Konwar, learned Senior Counsel assisted by Ms. S. Brahma, learned counsel for the accused-petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973, the accused-petitioner viz. Mridul Kr. Das has prayed for his release on bail in connection with Simla Police Station Case no. 34/2022, registered for offences under Sections 147/148/149/326/302, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and produced before the Court of learned Chief Judicial Magistrate, Mushalpur, Baksa on 30.10.2022. On being so produced, the accused-petitioner was remanded to custody.

4. As per the informant, at around 7-00 p.m. on 28.10.2022, his deceased son along with his friends went to a place where *Shyama Puja* was to be performed. In the First Information Report [FIR], the informant has named 11 persons as accused, who were to be held responsible for the murder of his son. Amongst the 11 number of persons, the name of the accused-petitioner has figured at serial no. 12.

5. The learned Additional Public Prosecutor has produced the case diary. From the materials in the case diary, collected during the course of investigation carried out so far, it has emerged that there was a fight between two groups of persons at the place where *Shyama Puja* was performed. It has emerged from the statements of the witnesses that the son of the informant was stabbed by a person from the rival group of assailants. In the materials available in the case diary including the statements of the witnesses and the arrested co-accused persons, recorded under Section 161, CrPC, no overt act of stabbing the deceased is attributed to the accused-petitioner. The investigation of the case has not, however, been completed till date, resulting either into a charge sheet or in a final report.

6. Considering the facts that in the materials collected in the course of

investigation carried out till date, there are not enough materials to connect the accused-petitioner in any overt act in the incident of stabbing the deceased; and that the accused-petitioner is in custody for a period of 90 days since 30.10.2022, this Court is of the considered view that further custodial detention of the accused-petitioner for the purpose of carrying out further investigation of the case appears not necessary and if he is released on bail, at this stage of investigation, further investigation of the case is not likely to be prejudicially affected, provided he continues to extend his assistance and cooperation in the further investigation of the case.

7. Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Mushalpur, Baksa, subject to the following conditions :-

[1] The accused-petitioner shall cooperate with the investigation and make himself available for interrogation as and when his presence is called for by the Investigating Officer (I.O.) of the case;

[2] The accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[3] The accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[4] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the

commission of which he is suspected;

[5] the accused-petitioner shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer in charge;

[6] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

8. This application stands disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant