

GAHC010003292023



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

Case No. : Bail Appln./82/2023

GOPAL BARMAN
S/O SUREN BARMAN
R/O RUPIA BANTHAN
P.O. CHAMATA
P.S. BELSOR
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

14.02.2023

Heard Mr. H. Baruah, learned counsel for the petitioner as well as Mr. B.B. Gogoi, learned Addl. P.P. appearing for the State.

2. The petitioner, namely, Sri Gopal Barman, has filed an application

under Section 439 Cr.P.C. with prayer for bail as he has been languishing in the judicial custody since 20.12.2022 in connection with Basistha P.S. Case No. 969/2022, under Section 302 IPC.

3. I have considered the submissions at the bar.

4. The FIR unfolds that on the night of 06.11.2022, the deceased came out of the hotel Nakshatra after a birthday party, but he did not reach home. The informant is the elder brother of the deceased and he got worried and so at about 2:24 A.M. midnight, he called his brother over phone. His brother asked him to proceed to Khanapara as soon as possible. Then after 10-15 minutes, he saw his brother lying on the road near the Khanapara Bridge with wounds on his forehead and other parts of his body. He immediately shifted his brother to GNRC Hospital at Sixmile and the Doctors informed him that his brother was in a very serious condition and surgery was advised to remove the blood clot, but unfortunately on 07.11.2022, his brother, i.e. the deceased succumbed to his injuries. He also received a call from a person named Deepak Kalita, who took his brother's phone after his brother had a collusion with the car of Deepak Kalita.

5. The present petitioner was forwarded to custody and the mobile phone belonging to the deceased was handed over by his sister to the police during investigation.

6. It is submitted at the bar that the petitioner was arrested on suspicion. The deceased died as a result of ante-mortem injuries sustained on the night of the incident.

7. It is submitted on behalf of the petitioner that the petitioner will co-operate with the trial.

8. It is also submitted on behalf of the petitioner that he is a local resident and will not jump bail.

9. It is submitted that the petitioner is innocent and is not responsible for the death of the informant's brother.

10. I have perused the statement of the witnesses under Section 161 Cr.P.C.

11. Witnesses have been examined under Section 161 Cr.P.C. and co-accused have also been examined during the investigation.

12. I have considered the prayer of the petitioner that he is the sole bread winner of the family. The petitioner's mother is also ailing.

13. Considering all aspects and in view of my foregoing discussions, petition is allowed.

14. The petitioner, namely, Sri Gopal Barman, is enlarged on bail, on furnishing bail bond of Rs.50, 000/- with a suitable surety of like amount to the satisfaction of the learned CJM, Kamrup(M) under the conditions:-

(i) that the petitioner will not tamper with the evidence and will not exercise threats to witnesses; and

(ii) the petitioner will not leave the jurisdiction of the trial Court without prior permission till completion of investigation.

15. Send back the case diary.

JUDGE

Comparing Assistant