

GAHC010004022023



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

Case No. : Bail Appln./99/2023

MD AMJUDDIN ALI @ AMJUDDIN
S/O MOJIBUR RAHMAN
R/O VILL- GARAPARI NISPI KHARAZ, P.O. AND P.S. DHULA
DIST. DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 28-02-2023

Heard Mr. T.K. Bhuyan, learned counsel for the petitioner as well as Mr. Bidyut Sarma, learned APP for the State.

2. The petitioner, namely, Md. Amjuddin Ali @ Amjuddin, who was arrested on 11.11.2022 in connection with Dhula P.S. case no.259/2022 under

section 342/376(AB) IPC read with section 6 of POCSO Act, is seeking regular bail by filing this application under section 439 Cr.P.C.

3. The learned APP seeks some more time to obtain the case diary.

4. It is noted that the direction was issued to call for the case diary on 09.01.2023, 25.01.2023 as well as on 03.02.2023, but the IO has not sent the case diary and he has also not communicated to the learned APP as whether any charge sheet has been submitted in this case. Therefore, in default of the IO to send the case diary, the Court finds that the prayer for bail has to be considered.

5. As the petitioner was arrested on 11.11.2022, he has spent 109 days in custody and therefore he would be entitled to default bail. Therefore, the Court is inclined to release the petitioner, namely, Md. Amjuddin Ali @ Amjuddin on bail on furnishing a bail bond of Rs.1.00 lakh (Rupees one lakh only) with two solvent sureties of like amount to the satisfaction of the learned Special Judge (POCSO), Darrang, Mangaldoi. Out of two bailors, one should offer his/her immovable property as security for grant of bail.

6. Bail is granted on the following conditions:

- a. The petitioner shall appear before the Court in the present case on all the dates fixed for trial.
- b. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to

Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.

c. The petitioner shall not obstruct the smooth progress of the trial/ investigation.

d. The petitioner shall not misuse his liberty in any manner.

e. The petitioner shall not jump over the bail.

f. The petitioner shall once again appear before the IO once in 15(fifteen) days and he shall continue to appear once a month till his personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.

7. Before releasing the petitioner on bail, the learned Court below shall examine its records to see as to whether any charge sheet was submitted in Dhula P.S. case no.259/2022 within 90 days from the date of arrest of the petitioner and in the event, if it is found that the charge sheet was submitted by the IO within 90 days, and the Court had taken cognizance of the offence, this order would not entitle the petitioner to be released on default bail.

8. Application stands disposed of.

9. The Registry shall communicate an order to the Superintendent of Police, Darrang, Mangaldoi to bring the order to his notice that the IO of Dhula P.S. had not produced the case diary till date.

JUDGE

Comparing Assistant