

GAHC010004932023



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

Case No. : Bail Appln./95/2023

MD MOHOR ALI
S/O- LATE SOFOR ALI,
VILLAGE NO-1, JOYMA,
P.S- GOSSAIGAON,
DIST- KOKRAJHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 27-01-2023

Heard Mr. A. Ahmed, 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. Md. Mohor Ali has prayed for his release on bail in connection with Kachugaon Police Station Case no. 33/2022, registered for offences under Sections 120B/341/325/326/328/307/379, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and produced before the Court of learned Sub-Divisional Judicial Magistrate [M], Gossaigaon on 30.11.2022. On being so produced, the accused-petitioner was remanded to custody.

4. As per the First Information Report [FIR], lodged on 29.09.2022, the informant, who was a driver of a truck bearing registration no. UP-14/ET-9761, was travelling from Delhi to Guwahati carrying goods of two parties. The consignments were to be delivered at Tezpur. At around 09-00/09-30 p.m. on 24.09.2022, the truck was way-laid by a ten-wheeler truck near Kokrajhar and around 7-8 people came out from the truck. The informant was taken forcefully by them inside their vehicle and thereafter, his hands were tied and eyes were covered by a piece of cloth. The informant was intoxicated and was beaten badly. The informant was thereafter, disrobed and thrown into a dense forest. The miscreants ran away with the vehicle leaving the informant naked inside the jungle. The mobile phone and the money in the possession of the informant were also snatched away. On regaining consciousness, the informant found himself in a hospital. Later on, the truck bearing registration no. UP-14/ET-9761 was recovered in empty condition at Ghograpar.

5. Mr. Sarma, learned Additional Public Prosecutor who has received the case diary, has submitted that the arrested co-accused persons in their statements recorded under Section 161, CrPC have clearly implicated the present accused-petitioner in the incident alleged in the FIR. The injury report of the victim reported multiple injuries in the nature of abrasion in different

parts of the body and pain and swelling in the lower leg. The injuries are reported to be grievous in nature, caused by blunt objects. On query to the learned Additional Public Prosecutor, he has submitted that apart from the afore-mentioned offences, no other offence has been added to the crime case by the Investigating Officer having regard to the materials, collected during the course of investigation.

6. Considering the above fact situation obtaining in the case and having regard to the fact that the accused-petitioner is in custody for 57 days since 30.11.2022, this Court is of the view that the further custodial detention of the accused-petitioner appears not necessary for the purpose of carrying out further investigation into the case and if he is released on bail, at this stage of investigation, such release is not likely to bring any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

7. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of Rs. 50,000/- with one suitable surety of the like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate [M], Gossaigaon, subject to the conditions that :-

[i] the accused-petitioner appear before the Investigating Officer of the case on the 1st day and 15th day of the month for the next 2 [two] months and shall cooperate with the investigation and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;

[ii] 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;

[iii] 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;

[iv] 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; and

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

8. The application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant