

GAHC010010742023



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

Case No. : Bail Appln./222/2023

AMAN ALI
S/O- LT. ISMAIL ALI, R/O- KOTABARI NEAR BILLAL MARKET, P.S.
GORCHUK, DIST.- KAMRUP (M), ASSAM, P/A- PANDU BAZAR NEAR KALI
MANDIR, P.S. MALIGAON, DIST.- KAMRUP (M), GHY

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 03-02-2023

- 1.** Heard Mr. B.K. Mahajan, learned counsel for the petitioner Aman Ali and Mr. B. Sharma, learned Addl. P.P. for the State.
- 2.** The petitioner has filed an application under Section 439 Cr.PC as he has been languishing in the jail since 28.12.2022 in connection with Basistha P.S. Case No.

1063/2022 under Sections 143/147/447/326/384/307 IPC.

3. It is submitted on behalf of the petitioner that he is innocent. The father of the informant has appointed the petitioner as one Faruk Ali Khan as his lawful attorney by a registered General Power of Attorney on 26.05.2019 in respect of a plot of land which is in dispute between the informant and the petitioner's side. The informant with malafide tried to deprive the petitioner of his right over the land in dispute.

4. The learned Addl. P.P. has laid stress in his argument that there are cogent materials in the Case Diary against the petitioner. The FIR unfolds that on 17.02.2022 at about 6:30 PM the informant, his mother and maternal uncle along with his father and some family members were attacked by masked miscreants who were armed with dangerous weapons. They were knocked unconscious due to grievous injuries caused upon them and the miscreants snatched away mobile phone and money. The miscreants also threatened them with dire-consequences.

5. I have perused the Case Diary. There are indeed cogent materials in the Case Diary against the petitioner. I have considered the submissions at the Bar. It is also submitted on behalf of the petitioner that the FIR is self-contradictory. Initially the name of the petitioner is mentioned in the FIR whereas on the body of the FIR it is mentioned that the miscreants were masked.

6. It is also submitted on behalf of the petitioner that he will co-operate with the investigation. I have also considered the submission that the petitioner is a local resident. I have perused the Case Diary and the injury reports of the injured persons provided by the Health City Hospital. I have also considered the length of detention. This case relates to land dispute between both the parties. It is apparent that both the parties sustained injuries. Further detention for the sake of investigation does not appear to be necessary at this stage.

7. Petition is allowed.

8. The petitioner is enlarged on bail of Rs. 35,000/- with a suitable surety of like

amount to the satisfaction of the Chief Judicial Magistrate, Kamrup (M) under the conditions that

- i. the petitioner will refrain from such activities with which he is alleged;
- ii. the petitioner will co-operate with the remaining part of the investigation;
- iii. The petitioner will not jump bail; and
- iv. the petitioner will not leave the jurisdiction of the Court without prior permission till completion of the investigation.

Send back the Case Diary.

JUDGE

Comparing Assistant