

GAHC010011072023



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

Case No. : Bail Appln./182/2023

SUBHRAJIT BORUAH
S/O HARESH BORUAH R/O CHAKALI BHARIA P.O. AND P.S. CHABUA DIST.
DIBRUGARH ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B K MAHAJAN

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

01.02.2023

Heard Mr. B.K. Mahajan, learned counsel for the petitioner as well as Mr. R.R. Kaushik, learned Addl. P.P. appearing for the State.

The petitioner, namely, Shri Subhrajit Boruah, has filed an application

under Section 439 Cr.P.C. with prayer for bail as he has been languishing in the jail since 30.11.2022 in connection with Dibrugarh P.S. Case No. 729/2022 under Sections 120(B)/341/395/307/143 IPC.

It is submitted on behalf of the petitioner that the petitioner, namely Shri Subhrajit Boruah is wrongly booked under Sections 395/307 IPC.

The allegation against the petitioner is that he subjected the informant's son to inhuman ragging and the offences under the Assam Prohibition of Ragging Act are bailable offences and no case under Sections 395/307 IPC was made out against the petitioner.

The learned Addl.P.P. has raised objections stating that there are cogent materials in the case diary against the petitioner. The statement of the injured person Shri Anand Sharma under Section 161 Cr.P.C. clearly depicts that he was subjected to harassment and inhuman torture by the main accused Shri Rahul Chetry, along with his companions which also includes the present petitioner.

The FIR unfolds that Shri Anand Sharma, a student of M.Com, 1st Semester, was subjected to immense cruelty in the guise of ragging by the petitioner and his companions. The cruelty intensified when the hostel warden of Dibrugarh University, was apprised about the ragging by the petitioner and his companions. Some photographs were also captured by the petitioner and his friends who forced the injured person to hold alcohol and weed and these photographs were captured with the sinister ploy to defame the injured person. The injured person had to jump from a multi-storied building to save his life when the petitioner and his friends pursued him.

There are indeed cogent materials in the case diary against the petitioner. The petitioner has been languishing in the jail since 30.11.2022. The injured person has sustained grievous injuries and he had to undergo multiple

operations after the incident.

I have perused the case diary.

The investigation has progressed substantially.

The learned counsel for the petitioner has submitted that the co-accused persons of the present petitioner, namely, Golab Deka and Pawan Gogoi preferred Writ Petitions being WP(C) No. 7881/2022 and WP(C) No. 8065/2022 respectively and both the co-accused were allowed by a Co-ordinate Bench of this Court to appear in the Semester examination.

I have considered the length of detention.

The petitioner has been behind the bars since 30.11.2022.

It is also submitted on behalf of the petitioner that he has been expelled from the University for 3 years.

After giving my anxious considerations to the submissions at the bar and after considering the length of detention and the progress of investigation, I deem it proper to enlarge the petitioner on bail.

Considering all aspects, petition is allowed.

The petitioner, namely, Subhrajit Boruah is enlarged on bail in connection with Dibrugarh P.S. Case No. 729/2022 under Sections 120(B)/341/395/307/143 IPC, on furnishing bail bond of Rs.30, 000/- with one suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Dibrugarh under the conditions that:-

- (1) the petitioner will not exercise threats to witnesses;
- (2) the petitioner shall co-operate with the trial;
- (3) the petitioner will not leave the jurisdiction of the trial Court without prior permission of the Jurisdictional Court till completion of investigation.

Send back the case diary.

The case is disposed of.

JUDGE

Comparing Assistant