

GAHC010265332022



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

Case No. : Bail Appln./443/2023

JAHANUDDIN ALI
S/O- MAZIBUR ALI
R/O- 2 NO. NIZARAPAR
NEAR 2 NO. NIZARAPAR MASJID
P.S. NOONMATI
DIST. KAMRUP(M)
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. C K NATH
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

27.02.2023

Heard Mr. S. Munir, learned counsel for the petitioner, namely, Jahanuddin Ali.

2. The petitioner has filed an application under Section 439 Cr.P.C. in connection with Sessions Case No.323/2022 arising out of Chandmari P.S. Case No.249/2022 under Section 302/34 of the Indian Penal Code, as he is in judicial custody since 17.11.2022.
3. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, for the State respondent.
4. I have considered the submissions at the Bar. It is submitted on behalf of the petitioner that the petitioner is not named in the FIR.
5. The FIR unfolds that on 27.05.2022 at about 10 a.m. the deceased Sariful Ali informed his brother Jahidul Ali that he has received a phone call and he was proceeding to the market. Thereafter, Sariful Ali went to the market and he did not return and so the informant set out searching for his brother and on the following morning the Noonmati Police informed the informant that his brother's body was found at Chandmari under the jurisdiction of Chandmari Police Station. The investigation commenced and the petitioner was arrested in connection with the aforesaid case. After completion of investigation, charge-sheet was laid against the petitioner. The petitioner was arrested and forwarded only on suspicion, due to a prevailing animosity between both the sides. It is submitted that the statement of the witnesses recorded under Section 161 Cr.P.C. also does not incriminate the petitioner.
6. I have scrutinized the LCR and scanned copies of the case diary.
7. I have considered the submission that the petitioner will cooperate with the trial. It is also submitted that the petitioner has no earlier criminal antecedent and the petitioner is a local resident. The petitioner was forwarded basically on suspicion. It appears that the trial may not be adversely affected if the petitioner is granted bail. The petitioner has prayed to be enlarged on bail to prepare for his defence. It is also submitted that the petitioner is innocent.
8. Considering all aspects and in view of the my foregoing discussions, the present application is allowed. The petitioner, namely, Jahanuddin Ali shall be enlarged on bail in

connection with Sessions Case No.323/2022 arising out of Chandmari P.S. Case No.249/2022 on furnishing a bail bond of ₹ 50,000/- with suitable surety of like amount to the satisfaction of the Trial Court. The aforesaid bail is granted on the following conditions:

- (i) The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
 - (ii) 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.
 - (iii) The petitioner shall not obstruct the smooth progress of the investigation/trial.
 - (iv) The petitioner shall not misuse their liberty in any manner.
9. Bail application stands disposed of.
10. Send back the LCR to the concerned Court.

Sd/- *Susmita Phukan Khaund*
JUDGE

Comparing Assistant