

GAHC010024742023



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

Case No. : AB/374/2023

MANASH DEKA
S/O RADHA DEKA, R/O VILL-JHARGAON, P.S. AND DIST-TAMULPUR,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 24.03.2023

Heard Mr. N.K. Kalita, learned counsel for the petitioner. Also heard Mr. Bankim Sarma, learned APP appearing for the State.

2. Apprehending arrest in connection with Tamulpur P.S. Case No. 120/2022, under section 326 IPC, the petitioner has filed this application under section 438 Cr.P.C.
3. This is the third pre-arrest bail application, after the earlier applications were rejected by order dated 31.08.2022, passed in AB 2090/2022 and order dated 03.11.2022, passed in AB 3021/2022.
4. The learned APP has produced the case diary and has opposed the prayer for bail on the ground that no new ground has been shown in this application.
5. On perusal of the case diary, it appears that there are incriminating materials against the petitioner of making an assault with a *dao* on one Khanin Mazumdar, who had ducked, as a result, the *dao* blow fell on the mother of the petitioner, who had died.
6. Upon instruction, the learned counsel for the petitioner has submitted that in the cross-case lodged by the petitioner, which is registered as Tamulpur P.S. Case No. 121/2022, charge-sheet has been filed under section 302 IPC.
7. Although there are incriminating materials against the petitioner in the present case, but considering that charge-sheet has been submitted in the cross-case, i.e. Tamulpur P.S. Case No. 121/2022, under section 302 IPC and also considering that the mother of the petitioner was the only person who had expired in the scuffle, which took place on 17.06.2022 owing to cutting of tree

branches which has roots in the land of the petitioner, but was projected in the land of the neighbor, the Court is of the considered opinion that custodial interrogation of the petitioner is not required.

8. In view of above, the Court is inclined to grant pre-arrest bail to the petitioner by providing that in the event of the arrest of the petitioner, namely, Manash Deka in connection with the aforesaid case, he shall be released on bail on furnishing bail bond of Rs.1,00,000/- with one suitable surety of like amount to the satisfaction of the arresting officer.

9. The pre-arrest 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 his liberty in any manner.
- V. The petitioner shall appear before the I/O within 10 (ten) days

from today and he shall continue to appear once in every month till his appearance is dispensed with by the I/O or charge-sheet is filed, whichever is earlier.

10. Application stands disposed of.
11. Case diary is returned.

JUDGE

Comparing Assistant