

GAHC010032312023



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

Case No. : Bail Appln./554/2023

BIKI CHEITA
SON OF LATE BIREN CHETIA
R/O NATUN NIRMALI GOAN, MANKATA TEA ESTATE UNDER DIBRUGARH
POLICE STATION, IN THE DISTRICT OF DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P KATAKI

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

03.03.2023

1. Heard Mr. P. Kataki, learned counsel appearing for the petitioner as well as Mr. R.R. Kaushik, learned Addl. P.P. appearing for the State respondent.
2. This application under Section 439 Cr.P.C, is preferred by the petitioner, namely, Biki

Cheita, who is in judicial custody since 14.03.2022 in connection with Sessions Case No. 188/2022, registered under Sections 302 IPC pending before the Court of Addl. Session Judge, Dibrugarh.

3. I have considered the submissions at the Bar.

4. I have also perused the scanned copies of the LCR.

5. The FIR was lodged by the petitioner's father-in-law namely, Chatughan Chetia. The FIR unfolds that on 13.03.2022, at about 12.30 a.m. midnight, the petitioner killed his wife by firing his service carbine (issued by the Government). The petitioner's wife Joyshree chetia is the informant's daughter. The petitioner had admitted that he fired the gun and killed his wife. The Dibrugarh P.S. Case No. 161/2022 was registered, under Section 302 IPC, read with Section 27(1) of the Arms Act and investigation commenced. The charge-sheet has been laid against the petitioner. The evidence of three witnesses have been recorded.

6. It is submitted on behalf of the petitioner that he is under suspension and he is a local resident and he will co-operate with the trial. As the petitioner was the husband of the deceased, he was forwarded to custody. He will discharge his burden under Section 106 of the Evidence Act to explain as to why his wife was found dead with the bullet injury in her body.

7. The learned Addl. P.P. has raised objections stating that evidence of three witnesses have been recorded. The witnesses list in the charge-sheet reveals that 8(eight) witnesses are enlisted and five more witnesses are yet to be examined. If the petitioner is enlarged on bail, there is every possibility that he will exercise threats to the witnesses and he will tamper with the evidence. It is not clear what made the petitioner to act in such an

aggressive manner that he went to the extent of killing his wife with his service carbine. The petitioner used to reside in the police quarters and the neighbours heard the gun shot and the petitioner was apprehended with his service carbine and his wife's body was found with a bullet injury.

8. I have perused the scanned copies of the LCR and the scanned copies of the case diary. It is not a case that investigation or trial is procrastinating to admit the petitioner to bail. The incident occurred on 14.03.2022 and the trial is progressing at a fast pace and three witnesses has already been examined. At this juncture, it is not discernible that the petitioner's liberty has been curtailed due to delay in investigation or trial. It appears that trial may be impeded or hindered if the petitioner is at large. There appears to be a possibility that the evidence may be tampered or hampered.

9. I have considered the gravity of the offence and the role attributed to the petitioner. At this juncture, there appears to be no justified ground to enlarge the petitioner on bail. The petitioner is at liberty to apply for bail at a later stage if the trial gets protracted or delayed.

At this stage, the petitioner's prayer for bail stands rejected.

JUDGE

Comparing Assistant