

GAHC010032772023



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

Case No. : Bail Appln./537/2023

ACHAJAT ALI @ AFZAD ALI @ AZAD ALI
S/O MUCHIALIM ALI @ MUSLIM ALI
R/O VILL- CHUTIAKARI
P.S.NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 03-03-2023

- 1.** Heard Mr. S. Gogoi, learned counsel for the petitioner Achajat Ali @ Afzad Ali @ Azad Ali.
- 2.** The petitioner has filed an application under Section 439 Cr.PC with prayer for

bail as he has been in jail since 18.05.2022 in connection with North Lakhimpur P.S. Case No. 246/2022, Sessions Case No. 89(NL)/2022 under Section 302 IPC.

3. This case is pending in the Court of the learned Additional Sessions Judge (FTC), Lakhimpur.

4. Heard Mr. R.R. Kaushik, learned Addl. P.P. for the State.

5. I have perused the scanned copies of the LCR and I have considered the submissions at the Bar. The FIR was lodged against the petitioner on 16.05.2022 contending inter alia that on 15.05.2022 at about 9 PM the informant's son Ishad Ali went to attend a marriage function in his neighbour's house. While Ishad Ali was sitting in the pandal, the petitioner relentlessly stabbed him with a sharp dagger. Immediately the deceased was taken to the hospital and he was declared as dead. The FIR was registered and investigation commenced and charge-sheet was laid against the petitioner. The petitioner was taken into custody and since then he has been languishing in the jail.

6. It is submitted on behalf of the petitioner that a quarrel erupted between the petitioner and the deceased and as a result of this quarrel the deceased died. The petitioner has been in custody since 18.05.2022. His bail petition was rejected by the Sessions Judge on 13.09.2022 and so the petitioner is before this Court. The petitioner has pledged to cooperate with the trial and not to evade appearance, as he is a permanent resident. He is the sole bread winner of his family who is suffering immensely due to his incarceration.

7. The learned Addl. P.P. has raised objection stating that fifteen witnesses are enlisted in the witness column of the charge-sheet. Trial has just commenced. The evidence of the informant and three other witnesses have been recorded. The learned Addl. PP has raised serious objection against the bail prayer. It is submitted that there is every possibility that the witnesses may be threatened.

8. I have perused the scanned copies of the LCR and the statements of the

witnesses under Section 161 Cr.PC. I have considered the role attributed to the petitioner and the gravity of the offence. This is not a case where trial has been procrastinated. This is also not a case where petitioner's liberty has been curtailed by incarceration. The FIR was lodged on 16.05.2022 and charge-sheet was laid on 24.06.2022. Evidence of four witnesses have already been recorded. If the petitioner is at large there may be a possibility that trial may be impeded. There may also be a possibility that evidence may be hampered or tampered. The trial is progressing at a fast pace. There appears to be no *prima facie* case to admit the petitioner to bail at this juncture. In case the trial gets protracted or delayed, the petitioner is at liberty to apply for bail. At this juncture, I am constrained to reject the petition with the prayer for bail.

Petition is rejected.

JUDGE

Comparing Assistant