

GAHC010045792023



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

Case No. : Bail Appln./761/2023

SOIDUR RAHMAN
S/O LATE AINUL HAQUE
VILL- BALIPUKHURI
P.S. GINGIA
DIST. BISWANATH, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 27-03-2023

1. Heard Mr. MH Ahmed, learned counsel for the petitioner. Also heard Mr. BB Gogoi, learned Addl. PP appearing for the State respondent.
2. The petitioner, namely, ***Soidur Rahman***, has filed an application

under section 439 Cr.P.C., with prayer for bail as he is in jail since 03.02.2023 in connection with ***Gingia PS Case No.32/2023*** under sections ***447/448/326/307/34 IPC***.

3. I have considered the submissions at the bar and have also perused the case diary.

4. The allegations against the petitioner is that on 11.02.2023 the petitioner and the co accused entered into the informant's house and assaulted the informant and his wife causing grievous injuries on the informant's wife. The informant's wife was under treatment in Biswanath Chariali when the FIR was lodged. After the incident at 2.00 PM, again at 3.00 PM the petitioner and the co accused assaulted the informant's son and tried to strangle him.

5. It is submitted at the bar that the petitioner himself sustained grievous injuries. Annexure – 3 clearly depicts that the petitioner was advised for treatment and x-ray. The petitioner has also prayed for bail on the grounds of parity as the co accused has been afforded interim bail in case AB 812/2023 vide order dated 10.03.2023.

6. The learned Addl. PP has raised serious objections stating that the statement of witnesses clearly implicates that the petitioner caused grievous injuries sustained by the informant's wife. The informant's wife was forwarded from Biswanath Chariali Civil Hospital to Tezpur Medical College for treatment as she sustained grievous injuries on her head caused by blunt object. The injury report is not in the case diary.

7. The petitioner's bail ought not to be considered without perusal of the injury report. The learned counsel for the petitioner laid stress in

his argument that the incident occurred on 11.02.2023 and the victim has not sustained grave injuries. The petitioner has been languishing in the jail for 43 days but the injury report has not been forwarded.

8. I have considered the prayer of parity. I have also considered the prayer for bail considering the length of detention.

9. Case diary also reveals that the investigation has progressed to a considerable extent.

10. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs.30,000/- with a suitable surety of the like amount to the satisfaction of the Eleka Magistrate under the conditions that:

- i. The petitioner will refrain from such activities with which he is alleged; and
- ii. the petitioner will not exercise threats to the witnesses;
- iii. the petitioner will not leave the jurisdiction of the court without prior permission till completion of the trial.

11. The instant bail application stands disposed of. Send back the case diary.

JUDGE

Comparing Assistant