

GAHC010068932023



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

Case No. : Bail Appln./1198/2023

MD. RUSTOM ALI
S/O- LATE AKBAR ALI, R/O- VILL- 1 NO. SONAJURI, P.S. SAMAGURI, DIST.-
NAGAON (ASSAM)

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

23/05/2023

Heard Mr. B Chowdhury, learned counsel for the petitioner and Mr. M P Goswami, learned Additional Public Prosecutor, Assam for the State.

2. This application under Section 439 Cr.P.C. has been filed by the petitioner, namely, **Md. Rustom Ali**, seeking bail in connection with **Samaguri P.S. Case No. 31/2020** registered under Sections 341/325/34 IPC with added Section 302 IPC, corresponding to G.R. Case No. 58/2020,

wherein he was arrested on 22.02.2023 and since then he is in custody.

3. Perused the case diary placed before the Court today by Mr. M P Goswami, learned Additional Public Prosecutor, Assam.

4. As per the FIR of the case lodged by the brother of the deceased on 22.01.2020, the petitioner along with one Dipak Biswakarma on the night of 17.01.2020 around 8/9 PM assaulted his brother and injured him severely. He was immediately taken to Simna Basti Primary Health Centre and later, he was shifted to Nagaon Civil Hospital for better treatment.

5. The said FIR was lodged before the Salona Police Outpost which was registered as Salona P.P. G.D. Entry No. 321 dated 22.01.2020 and the same was forwarded to Samaguri Police Station, wherein it was accordingly registered as Samaguri P.S. Case No. 31/2020 under Sections 341/325/34 IPC on 23.01.2020. Later, the victim expired on 24.01.2020 while under treatment in said Nagaon Civil Hospital and accordingly, on the prayer of the Investigating Officer, pursuant to the order dated 10.02.2020 of the Judicial Magistrate, 1st Class, Kaliabor, Nagaon, Section 302 IPC was added in said Samaguri P.S. Case No. 31/2020.

6. After investigating the matter, the concerned Investigating Officer submitted the charge-sheet in said Samaguri P.S. Case No. 31/2020 vide Charge-Sheet No. 42/2023 dated 28.02.2023 against the petitioner under Sections 341/325/302 IPC.

7. By order dated 03.05.2023, scanned copy of the LCR was called for from the competent Court.

8. Perused the inquest report of the deceased dated 24.01.2020 which indicates that there was no such external injury on the part of the deceased.

9. The postmortem report dated 24.01.2020 of the Senior Medical and Health Officer, B.P. Civil Hospital, Nagaon reflects that there was no such external injury on the person of the deceased. His Cranium and Spinal Canal, Thorax, Abdomen including Liver, Spleen, Kidney, other organs, Muscles, Bones and Joints were found healthy and without any injury. There was also no fracture and no dislocation. In the said postmortem report of the deceased dated 24.01.2020, the concerned Autopsy Doctor specifically mentioned that the deceased was a malnourished and cachectic male body. Since the Autopsy Doctor found that the deceased was suffering from severe chronic debilitating disease (metabolic) and expired due to cardio respiratory failure, as such, to ascertain the exact cause of

death of the deceased, the concerned Autopsy Doctor preserved his organs and forwarded the part of the stomach, liver, kidney for necessary forensic laboratory testing.

10. After examining those organs of the deceased, the Directorate of Forensic Science, Assam forwarded the concerned forensic report dated 07.08.2020 to the Superintendent of Police, Nagaon, Assam which discloses that his stomach and part of liver and kidney gave positive test for Carbamate insecticide.

11. Considering the above and the period of detention of the petitioner in custody since 22.02.2023, the Court is of the view that further custodial detention of the petitioner is not warranted in said Samaguri P.S. Case No. 31/2020 for investigation of the said case. As such, this bail application of the petitioner in said Samaguri P.S. Case is accepted.

12. Accordingly, the petitioner, namely, **Md. Rustom Ali**, be released on bail in said **Samaguri P.S. Case No. 31/2020** registered under Sections 341/325/34 IPC with added Section 302 IPC, on furnishing a bail bond of Rs.40,000/- with 2 (two) local sureties of the like amount, to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Kaliabor, Nagaon, as the case may be, on conditions that the petitioner shall – (i) appear before the learned Trial Judge in said Samaguri P.S. Case No. 31/2020 as and when he is required for necessary investigation of the case; (ii) not leave the territorial jurisdiction of the Samaguri Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; (iii) not hamper with the investigation, or tamper with the evidence of the case and (iv) he 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 them from disclosing such facts to the Court or to any police officer.

13. It is also directed that on the basis of the said charge-sheet submitted in the case, if cognizance of offences under Sections 341/325/302 IPC is taken against the petitioner in said G.R. Case No. 58/2020 arising out of Samaguri P.S. Case No. 31/2020, in that event, he shall appear before the concerned Trial Court as and when his presence is required.

14. Any violation of any of the aforesaid terms and conditions by the petitioner, named above, the bail granted to him in said Samaguri P.S. Case No. 31/2020 shall stand automatically vacated.

15. It is made clear that the view expressed by this Court hereinabove is only for the purpose of granting bail to the petitioner in said Samaguri P.S. Case No. 31/2020.

- 16.** Return the case diary herewith.
- 17.** Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant