

GAHC010069642023



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

Case No. : Bail Appln./1182/2023

MD. ARFAN ALI
S/O- LT. AZIZUR RAHMAN, R/O- ROWMARI, P.S. NAGAON (SADAR), DIST.-
NAGAON, ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

12.04.2023

Heard Mr. A.M. Khan, learned counsel for the accused-petitioner and Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam for the State.

2. This bail petition has been filed by the accused-petitioner, namely, Md. Arfan Ali, seeking bail in connection with Nagaon P.S. Case No. 67/2023

registered under Sections 447/302 of the IPC. The accused-petitioner was arrested on 08.02.2023 and since then he has been in custody.

3. An FIR dated 24.01.2023 was lodged by the informant one Habibur Rahman whereby it was alleged that his brother upon returning home at night around 9 PM was attacked by some unknown persons injuring him in his mouth, head and hand by sharp weapons. Thereafter, he was taken to the Nagaon Civil Hospital for treatment but he was declared to be dead by the Hospital. The said FIR was received and registered as Nagaon P.S. Case No. 67/2023 under Section 447/302 of the IPC.

4. During the investigation, the accused-petitioner was arrested on 08.02.2023 and has been in judicial custody since then. It is submitted by the learned counsel for the accused petitioner that he is not at all connected with the offences alleged. He has no enmity with the deceased person or has family and therefore, he was arrested without any rhyme or reasons and therefore, his custodial detention in connection with this case is not at all required. Accordingly his prayer for bail should be granted by the Court.

5. The learned Addl. Public Prosecutor, Assam has produced the case diary along with the post mortem report.

6. The post mortem report reveals that the cause of death is due to Neurogenic and Haemogenic shock as a result of the head and face injury sustained. All the injuries noted in the post mortem report are opined to be ante-mortem in nature and that the injuries were caused by sharp weapon

object.

7. Perusal of the case diary also reveals and the 164 statement of the eye witness whereby the said witness Rojina Khatun clearly implicates the accused-petitioner. The deceased was her brother and the accused-petitioner is stated to be the uncle of the deceased as well as the said eye witness. From the case diary, it is revealed that there appears to be a dispute between the petitioner and the deceased in respect of the share/proceeds from a Brick Kilm which is stated to be owned by the father of the petitioner and which was being supervised by the deceased person.

8. Upon perusal of the case diary, it appears that prima facie there are materials which clearly implicates the petitioner of the offences alleged.

9. The offences alleged are grave in nature and the punishments prescribed under the Sections, if convicted, are severe.

10. In view of the materials available in the case diary as well as the gravity of the offences alleged and considering the stage of investigation, this Court is not inclined to grant bail to the accused petitioner as prayed.

11. Accordingly, the bail application is dismissed.

12. Return the case diary.

JUDGE

Comparing Assistant