

GAHC010072572023



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

Case No. : Bail Appln./1218/2023

NUR MOHAMMAD SARKAR
S/O- AMINUL HAQUE AHMED, VILL- KHOPATIA PT-II, P.O. SUKCHAR, P.S.
HAJO, DIST.- SOUTH SALMARA MANKACHAR, PIN- 783128

VERSUS

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

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

08.05.2023

1. Heard Ms. T. Som, learned counsel for the petitioner.
2. The petitioner, namely, Nur Mohammad Sarkar, has filed an application under Section 439 Cr.P.C. with prayer for bail as he has been languishing in the jail since 25.02.2023 in connection with Geetanagar P.S. Case No. 101/2014

registered under Sections 364(A)/302/201 IPC read with Section 120(B).

3. Heard Mr. P. Borthakur, learned Addl. Public Prosecutor appearing for the State respondent.

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

5. The FIR unfolds that on 08.04.2014 Md. Shaklin Mustak along with his friend Azgar Ali came to Guwahati and spent the night in Mohor Ali's house at Sijubari. On the next date, i.e. on 09.04.2014, both Shaklin Mustak and Azgar Ali went to visit the Zoo and one girl called Shaklin Mustak over phone. At about 2:00 P.M. the unknown girl had taken Shaklin Mustak to a nearby place and after some discussions, the girl asked Azgar Ali to wait for half an hour in front of the Zoo. After sometime Azgar Ali called Shaklin Mustak and Azgar Ali was asked by Shaklin Mustak to proceed to Christian Basti and Kamakhya Gate. When Azgar Ali went to that place, he could not find Shaklin Mustak. Thereafter, he was asked to go to Adabari but Azgar Ali could not find Shaklin Mustak even in Adabari. Thereafter, Shaklin Mustak's mobile phone was found to be switched off. Azgar Ali then returned from Adabari. On 11.04.2014 at about 10:00 P.M. the informant received a phone call for a ransom of Rs. 50, 00000/- (Rupees Fifty Lakhs) for release of his brother Shaklin Mustak within 48 hours.

6. The learned Addl. Public Prosecutor has raised objections stating that there are incriminating materials in the case diary against the present petitioner.

7. Earlier this Court had rejected his bail petition vide order dated, 21.03.2023 in case No. Bail Appln. No. 789/2023.

8. I have considered the submissions on behalf of the petitioner that he has been in custody for 75 days. Investigation has also progressed to a considerable extent.

9. It is submitted that the investigation has been pending for recovery of the body of Shaklin Mustak, but it is not plausible that the body will be recovered because the incident occurred in the year 2014.

10. It is also submitted that on behalf of the petitioner that Ali Hussain has falsely implicated the present petitioner. Ali Hussain is a repeat offender and due to a rivalry between the petitioner and Ali Hussain, he has tried to implicate the petitioner with a false case. Several suspects have been apprehended in connection with this case and he has been released on bail. The petitioner has also prayed for bail on the grounds of parity.

11. Considering all aspects, petition is allowed.

12. The petitioner, namely, Nur Mohammad Sarkar is enlarged on bail in connection with the above mentioned case, on furnishing bail bond of Rs.50,000/- with one suitable surety of like amount to the satisfaction of the learned CJM, Kamrup(M) under the conditions that:-

- (i) the petitioner will not exercise threats to witnesses; and he will co-operate with the remaining part of the investigation;
- (ii) the petitioner will not leave the jurisdiction of the trial Court without prior permission, till completion of investigation.

13. Send back the case diary.

14. The case is disposed of.

JUDGE

Comparing Assistant