

GAHC010080982023



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

Case No. : Bail Appln./1374/2023

JAHANUDDIN MIYA @ JAHANUDDIN
S/O LATE RAHMAN MIYA
PERMANENT R/O DOMKAL
P.S.DOMKAL
DIST. MURSHIDABAD
WEST BENGAL,
PRESENTLY RESIDING AT
VILL- DHAAN BANDHA
P.O. SONKUCHI
P.S. AND DIST. BARPETA, ASSAM
PIN-781314

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

03-05-2023

Heard Mr. S.C. Biswas, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

This Bail petition has been filed by the petitioner, namely, Jahanuddin Miya @ Jahanuddin, who was arrested on 12.11.2022 in connection with Barpeta P.S. Case No.1101/2022 registered under Sections 120(B)/364/302/201 of the IPC.

On 10.11.2022 one informant, namely, Semina Parbin lodged an FIR alleging that due to the matrimonial dispute between the informant and the petitioner, the petitioner with the help of other two accused persons named in the FIR had killed the mother of the informant. The informant's mother went missing on 17.10.2022 and her dead body was recovered by the Barpeta Sadar Police on 09.11.2022.

Learned counsel for the petitioner submits that the charge-sheet in the matter being CS no.30/2023 dated 30.01.2023 been submitted before the Court of Additional Sessions Judge, Barpeta and the said matter being Sessions Case No.26/2023 is presently pending before the Court of Additional Sessions Judge, (FTC), Barpeta. Since 12.11.2022 the petitioner has been in custody.

Learned counsel for the petitioner submits that the petitioner is a resident of Barpeta and he was arrested during the investigation. Now the investigation has been completed, charge-sheet has been filed. That apart, the trial has proceeded and three prosecution witnesses have already been examined.

It is submitted that under the circumstances, further custodial detention of

the petitioner shall not subserve the purpose of fair trial against the petitioner.

Mr. B.B. Gogoi, learned Addl .Public Prosecutor, submits that the matter is presently under trial before the Court of Additional Sessions Judge, Barpeta and examination of prosecution witnesses is undergoing.

This Court vide order dated 12.04.2023 had called for the scanned copies of the LCR in respect of Sessions Case No.26/2023 and the same has been received. I have perused the same.

Having heard the learned counsels for the parties and upon perusal of the pleadings on record including the scanned copies of the LCR, it is seen that as on date three prosecution witnesses have been examined. Depositions of the witnesses do not specifically implicate the petitioner. Considering the matter from all aspects and also considering the period of detention of the petitioner has undergone, since the trial has already proceeded and the prosecution witnesses are being examined, this Court is of the view that further custodial detention of the petitioner in connection with Sessions Case No.26/2023 is presently pending before the Court of Additional Sessions Judge, (FTC), Barpeta is not required.

Accordingly, the accused-petitioner, namely, Jahanuddin Miya @ Jahanuddin shall be released on bail forthwith in connection with Sessions Case No.26/2023 arising out of Barpeta P.S. Case No.1101/2022 registered under Sections 120(B)/364/302/201 of the IPC on furnishing a bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with 2 (two) local surety of like amount to the satisfaction of the Additional Sessions Judge, (FTC), Barpeta, subject, of course to the following conditions:

- i) That the petitioner shall appear before the Session Court

seized of the matter on every date as required;

- ii) That the petitioner shall not leave the jurisdiction of Barpeta P.S. without obtaining prior written permission from the competent Court.

In the event, the petitioner is found to have violated any of the above conditions or is found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the bail granted to the petitioner.

Accordingly, the bail petition is allowed and disposed of.

JUDGE

Comparing Assistant