

GAHC010082272023



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

Case No. : Bail Appln./1413/2023

NUR ZAMAL SK AND ANR
S/O HUSSAIN ALI
R/O VILL- MODHUSOULMARI PART-II UNDER GAURIPUR POLICE STATION
IN THE DISTRICT OF DHUBRI, ASSAM

2: SAHIDUR RAHMAN @ PUNU
S/ LATE MOKSET ALI
R/O VILL- MODHUSOULMARI PART-II UNDER GAURIPUR POLICE STATION
IN THE DISTRICT OF DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 28.04.2023

Heard Mr. S. Das, learned counsel appears for the
petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public

Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioners, Nur Zamal Sk and Sahidur Rahman @ Punu seeking bail as he is arrested in connection with Gauripur P.S. Case No. 0003/2023 registered under Sections 143/447/326/302/34 of IPC.

3. The petitioner No.1 is arrested on 28.01.2023 and the petitioner No. 2 was arrested on 01.02.2023 and since then they have been in custody.

4. It is submitted by the learned counsel for the petitioner that by an FIR dated 04.01.2023 lodged by the informant, one, Moinul Haque, it is alleged that the FIR named accused persons along with 20-25 other miscreants trespassed into his house with an attempt to kill the informant's brother, Mofizur Rahman. Fearing for his life, his brother attempted to take shelter in different house but the accused persons ran after him and then he was dragged out of the house and was brutally attacked and which led to the death of the injured/victim. The accused persons and other miscreants attacked the victim with lethal weapons, like, lathis and daggers.

5. Upon the FIR being registered and an investigation initiated, the petitioners were arrested in connection with the aforementioned case.

6. The learned counsel for the petitioner submits that they

have co-operated with the investigation and they were not responsible for the offences alleged. It is submitted that petitioner No.1 has already completed 90 days in detention and petitioner No.2 has completed 87 days.

7. Mr. B. B. Gogoi, learned Addl. P.P has produced the case dairy before this Court.

8. Case Diary produced has been carefully perused.

9. From the case diary, it is seen that the investigations are still being carried on; however no charge-sheet has been filed. The 164 statement of a witness reveals that the petitioners were also a part of the group, which had assembled and had assaulted the victim. However, no specific materials are available from the case dairy upon perusal of the 164 statements by the witnesses to suggest that the lethal blows were struck by the petitioners. Several witnesses have been examined and the matter is still under investigation. No charge-sheet has been filed.

10. This Court is of the view that upon perusal of the case dairy and considering the period of detention, the petitioners are permitted to be released on bail. Accordingly, this Bail petition is allowed. The petitioners are directed to be released on bail forthwith subject to executing a bail bond of Rs.30,000/- (Rupees thirty thousand) only each with two (2) local surety of like amount subject to the satisfaction of the Chief Judicial Magistrate, Dhubri. The bail, granted however, subjected to the following conditions:-

i) The petitioners shall appear before the Investigating Officer as and when required and cooperate with the investigation.

ii) The petitioners shall not change his residence or place of business, without prior written permission from the Court of Chief Judicial Magistrate, Dhubri.

iii) That the petitioners shall not hamper or tamper with the investigation in any manner; and

iv) That the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in connection to this Police Station Case.

11. If any of the conditions are found to be violated by the petitioners then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.

12. With the above direction, the bail petition is accordingly allowed and disposed of.

13. Return the case dairy.

JUDGE

Comparing Assistant