

GAHC010085042023



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

Case No. : Bail Appln./1421/2023

SWAHID ALI
S/O LT. SABOR ALI
ADDRESS-
R/O VILL- NO. 4 DAKSHIN MAKRA,
P.S. BIJNI,
DIST. CHIRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D SARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 23.05.2023

Heard Mr. D. Sarmah, 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 petitioner, namely, Swahid Ali seeking bail in connection with Manikpur P.S. Case No. 59/2023 under Section 306 of IPC. The petitioner was arrested on 04.04.2023 and since then he has been in custody.

3. It is submitted that an FIR dated 03.04.2023 was lodged by the informant, one Nur Alom, wherein it was alleged that his sister namely, one Arjina Khatun had an affair with one Jamir Ali. On 01.04.2023 his sister went away with Jamir Ali for the purpose of getting married. However, they were prevented from getting married with Jamir Ali and it was alleged that at the behest of the petitioner, his sister was mentally and physically harassed and was put inside a vehicle and dropped at the house of the informant. However, because of extreme grief, on 03.04.2023 at about 9.00 a.m, his sister committed suicide, possibly by consuming poison. Accordingly, the FIR was lodged and the four accused persons were named including the present petitioner.

4. The learned counsel for the petitioner submits that the petitioner is not at all connected with the offences alleged. He was the driver of the car in which the deceased was brought to the house of the informant on 02.04.2023. It is submitted that the decision not to solemnized the marriage between the petitioner and the deceased was taken amongst the family members of the prospective bride and the groom. The petitioner was merely requested to drop the girl at her

brother's house, namely, the informant. And he accordingly dropped the girl at her brother's residence by his vehicle. As such it is submitted that he is not at all connected with the offences alleged and he has been arrested only on mere suspicion.

5. Learned counsel for the petitioner has also referred to the order dated 15.05.2023 passed by this Court in Bail Application No./1420/2023, in which three other persons named as accused persons in the FIR have already been granted bail.

6. Mr. B. B. Gogoi, learned Addl. P.P has produced the case diary before this Court as called for.

7. The post Mortem Report as seen from the case diary does not reveal the cause of death as the opinion has been kept pending till the arrival of toxicological reports from the FSL. Perusal of the case diary does not reveal any incriminating material at this stage of the investigation which suggests that further custodial detention of the petitioner is necessary for the investigation of the case. No materials are also seen from the case diary to suggest that release of the petitioner on bail at this stage of investigation will cause impediment to the investigation carried on. That apart, this Court has already enlarged on bail the three of the accused persons, named in the FIR vide order dated 15.05.2023 passed in Bail Application./1420/2023.

8. Upon hearing the learned counsels for the parties and

upon perusal of the pleadings on records and upon consideration of all the materials available and the discussions above, this Court is of the view that the petitioner can be enlarged on bail. Accordingly, petitioner is directed to be released on bail forthwith subject to executing a bail bond of Rs.35,000/- (Rupees thirty five thousand) only with 2 local sureties of like amount to the satisfaction of the Additional Chief Judicial Magistrate, Bongaigaon. The bail, granted however, subjected to the following conditions:-

- i) The petitioner shall continue to appear before the police once a month and cooperate with the Investigating Officer as and when required, till completion of investigation.
- ii) The petitioner shall not change his residence or place of business, without prior written permission from the Court of Additional Chief Judicial Magistrate, Bongaigaon.
- iii) That the petitioner shall not hamper or tamper with the investigation in any manner; and
- iv) That the petitioner 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.

9. If any of the conditions are found to be violated by the petitioner then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.
10. With the above direction, the bail petition is accordingly allowed and disposed of.
11. Return the Case Dairy.

JUDGE

Comparing Assistant