

GAHC010093682023



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

Case No. : Bail Appln./1589/2023

RUP KHAN
S/O PAHAR KHAN
R/O VILL- DHANBANDHA DONAKUCHI,
P.O. AND P.S. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

~~26-05-2023~~

Heard Mr. K. Sarma, 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, Rup Khan, who was arrested on 11.11.2022 in connection with Session 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.

It is submitted that by an FIR dated 10.11.2022 was lodged by the informant namely one Semina Parbin stating that accused No. 1, mentioned in the FIR, is the husband of the informant who had physically tortured the informant and chased her out from his house to her parental house. It was also alleged that the accused had threatened her and her family members with dire consequences. It was further alleged that accused No. 1 engaged the accused Nos. 2 & 3 and some other person to inform him where the informant and her family members were roaming. On 17.10.2022, her mother Hasina Khatun was missing, while she went to Barpeta Court. In this regard, missing information was reported at Barpeta Sadar Police Station. On 09.11.2022 at about 12.30 PM, a dead body was recovered by Barpeta Sadar Police Station and which was identified by the informant that the dead body of her missing mother. The informant strongly suspects that accused Nos. 1, 2 & 3 conspiring with some others committed murder of her mother. The said FIR was received and registered as Barpeta P.S Case No 1101/2022 under Sections 120(B)/364/302/201 of the IPC.

Learned counsel for the petitioner submits that the charge-sheet in the matter being CS no.30/2023 dated 30.01.2023 was submitted before the Court of Additional Sessions Judge, Barpeta and the said matter being Sessions Case No.26/2023 is presently pending trial before the Court of Additional Sessions Judge, (FTC), Barpeta. The petitioner was arrested on 11.11.2022 and since then he 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 six prosecution witnesses have already been examined. It is submitted that under the circumstances, further custodial detention of the petitioner will 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 are underway.

This Court vide order dated 12.05.2023 had called for the scanned copies of the LCR of Sessions Case No.26/2023 and the same has been received. The scanned copies of the LCR has been perused.

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 six prosecution witnesses have been examined. Considering the matter from all aspects and also considering the period of detention, the petitioner has undergone, since the trial has already proceeded and the prosecution witnesses are being examined in the interest of fair trial, this Court is of the view that further detention of the petitioner in connection with Sessions Case No.26/2023 does not appear to be necessary and the petitioner can be released on bail.

Accordingly, the accused-petitioner, namely, Rup Khan shall be released on bail 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. 35,000/- (Rupees Thirty Five Thousand only) with 2 (two) local solvent 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 each and every date as required;
- ii) That the petitioner shall not leave the jurisdiction of Barpeta P.S. without obtaining prior permission from the competent Court.
- iii) The petitioner shall not attempt to influence or intimidate any person/witnesses connected with the case.
- iv) The petitioner shall not tamper with evidence connected with the case.

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 cancellation of the bail granted to the petitioner. Accordingly, the bail petition is allowed and disposed of.

JUDGE

Comparing Assistant