

GAHC010095652023



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

Case No. : Bail Appln./1587/2023

SAMIR ALI
S/O LT. MATLIB ALI R/O VILL. ROWMARI P.S SUALKUCHI DIST. KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. K MOHAMMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

25-05-2023

Heard Mr. K. Mohammad, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

This Bail Application has been filed by the petitioner, namely, Md. Samir Ali, who is in custody since 22.02.2023 in connection with Sualkuchi Police

Station Case No.32/2023 registered under Sections 341/294/325/326/ 307/506/34 of the IPC.

Learned counsel for the petitioner submits that an FIR dated 22.03.2023 has been lodged by the informant one Beauty Begum making allegations that the petitioner, shown as accused no.1 in the FIR dated 22.03.2023, attacked the son and brother-in-law of the informant, as a result of which both of them sustained grievous injuries and they are currently undergoing treatment under the Gauhati Medical College & Hospital. It is submitted by the learned counsel for the petitioner that after lodging of the FIR dated 22.03.2023, the petitioner was arrested on 22.02.2023 in connection with Sualkuchi Police Station Case No.32/2023 registered under Sections 341/294/325/326/ 307/506/34 of the IPC and since then, he has been in custody and in the meantime, the petitioner has completed more than the statutory period of 90 days as prescribed under the statute. Learned counsel for the petitioner further submits that this is a second bail application. Earlier this Court vide order dated 12.04.2023 passed in Bail Application No.1219/2023 had rejected the bail prayer of the petitioner.

This Court had called for the case diary on 08.05.2023 and again on 17.05.2023.

Today, when the matter is listed, it is submitted by Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam that the case diary, as called for, has not

been received. However, Mr. B.B. Gogoi fairly submits that charge-sheet in this case has not been filed as on date.

From the case records, it is seen that the petitioner was arrested on 22.02.2023 and as on date he has completed more than the statutory period of 90 days as prescribed under the statute under Section 167 (2) Cr.P.C. Further, it has been submitted by Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, that no charge-sheet has been filed as on date nor has any application been filed seeking extension of the period of detention as on date.

As has been held in ***Rakesh Paul Vs. State of Assam***, reported in ***(2017) 15 SCC 67*** and ***M. Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence***, reported in ***(2021) 2 SCC 485***, when the accused applies for bail under Section 167(2) Cr.P.C. upon expiry of the statutory period, the Court must release him on bail forthwith. The rights of the accused-petitioner under Section 167 can also be enforced orally as has been held by the Apex Court in ***Rakesh Paul*** (Supra).

Accordingly, considering the length of detention and considering the prayer made by the learned counsel for the accused-petitioner invoking his right under Section 167(2) of the Cr.P.C., as the petitioner has been in detention for more than statutory period prescribed and no charge-sheet having been filed as on date, this Court directs the petitioner be released on default bail.

Accordingly, the petitioner, named above, shall be released on bail in connection with the above noted case, upon furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with 1 (one) local surety of like amount to the satisfaction of the Judicial Magistrate, First Class (JMFC), Hajo, subject, of course, to the following conditions:

- (i) That the petitioner shall appear before the Investigating Officer of the case as and when required till completion of the investigation;
- (ii) That the petitioner shall not hamper or tamper with the investigation in any manner;
- (iii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police office; and
- (iv) That the petitioner shall not leave the jurisdiction of competent Court without obtaining prior written permission.

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 competent Court shall be at liberty to apply for recall/cancellation of the bail granted to the

petitioner.

The Bail Application is accordingly allowed and disposed of.

JUDGE

Comparing Assistant