

GAHC010106472023



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

Case No. : Bail Appln./1776/2023

SIMRAN HAZARIKA
S/O SRI MONIRAM HAZARIKA, R/O EAST GOTANAGAR, MALIGAON,
NEAR AMBIKAGIRI HIGH SCHOOL, P.S.-JALUKBARI, DIST-KAMRUP (M),
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 12.06.2023

Heard Mr. N Choudhury, learned counsel appearing for the petitioner. Also heard Mr. R.J.Baruah, learned Additional Public Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioner, namely, **Simran Hazarika** seeking bail in connection with Jalukbari P.S. Case No. 229/2023 under

Sections 302/34 of IPC and added Section 326/307 of the IPC.

3. The learned counsel for the petitioner submits that an FIR dated 16.04.2023 was lodged by the informant, one Raj Kishor Gami alleging that his son was assaulted and stabbed by some persons and thereafter he was admitted in the GMCH, Guwahati but was declared dead. Thereafter the FIR was filed requesting the police to investigate into the matter and arrest the culprits. The FIR was received and registered as Jalukbari P.S. Case No. 229/2023.

4. The learned counsel for the petitioner submits that the petitioner is not responsible for the offences alleged and the person who allegedly committed the offence was also arrested and is in custody. The learned counsel for the petitioner further submits that there was a fight amongst some group of boys. However, the offence of stabbing and assaulting the deceased was not committed by the petitioner and therefore, the learned counsel for the petitioner prays for releasing the petitioner on bail.

5. The petitioner has been arrested in connection with the aforesaid case on 17.04.2023 and since then he has been in custody.

6. This Court vide the order dated 22.05.2023 had called for the case diary. Case diary called for is produced before this Court and is carefully perused.

7. From the Case diary, it is seen that the investigation has progressed in the matter. Post mortem report does not opine the cause of death and the same is pending for FSL report. FSL report is not part of the case diary as called for.

8. On perusal of the case diary and from the statements of the witnesses examined, it reveals that the act of physical assault which may have led to the death of the deceased was caused by some other persons. At this stage of investigation, this Court does not find sufficient incriminating materials which suggest that further

custodial detention of the petitioner is necessary for investigation of the case. No materials are also found to suggest that release of the petitioner on bail will hamper the investigation that will be carried on.

9. Consequently, this Court is inclined to grant the privilege of bail to the present petitioner.

10. Accordingly, the bail petition is allowed. The petitioner , named above is directed to be released on bail forthwith subject to executing a bail bond of Rs.30,000/- (Rupees thirty thousand) only with one local surety of like amount to the satisfaction of the **Chief Judicial Magistrate, Kamrup at Guwahati**. The bail, granted however, subject to the following conditions:-

(i) The petitioner shall continue to appear before the police 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 Chief Judicial Magistrate, Kamrup at Guwahati.

(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.

11. 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.

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

13. Return the Case Dairy.

JUDGE

Comparing Assistant