

GAHC010121262023



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

Case No. : Bail Appln./1959/2023

ASHRAFUL ISLAM
S/O HABIBAR RAHMAN
R/O VILL- TARANGAJHAR
P.O. JAMADHARHAT
P.S. FAKIRGANJ,
DIST. DHUBRI, ASSAM,
PIN-783330

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A F N U MOLLAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19.07.2023

Heard Mr. A. F. N. U. Mollah, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This is an application under Section 439 of the Code of Criminal Procedure,

1973 filed by the petitioner, namely, *Ashraful Islam*, who has been detained behind the bar since 03.05.2023 (76 days) in connection with Changsari P.S. Case No. 130/2023 under Section 302/201/34 of the Indian Penal Code.

The accusation in this case is that on 03.05.2023, one Upananda Kalita, ASI of Police, North Guwahati Police Out Post, lodged an FIR before the Officer-in-Charge of Changsari Police Station, *inter alia*, alleging that on that day at about 8.00 p.m. an information was received that one Saherul Islam has brought a girl to his rented house and a few days ago and the girl was not seen by the local people and they suspect that Saherul Islam had killed the said girl. On suspicion, interrogation was made and during interrogation, Saherul Islam admitted that he had killed Sajeda Khatun whom he brought to rented house for purpose of marrying her and later on buried down at the paddy field back side of his rented house with the help of the present petitioner, namely, *Ashraful Islam*. On receipt of the said FIR, Changsari P.S. Case No. 130/2023 was registered.

Learned counsel for the petitioner submits that the present petitioner is innocent and he had a visiting relationship with the prime accused of this case and, therefore, he has been falsely implicated in this case.

On the other hand, learned Additional Public Prosecutor had placed the case diary, which was called for in connection with this case before this Court and submits that the investigation of this has fairly progressed and it appears from the materials on record in the case diary that the co-accused, namely, the main accused *Saherul Islam* had confessed killing of the deceased and there are evidence in the case diary that the present petitioner has helped the main accused in burying the dead body.

I have considered the submissions made by learned counsel for both sides. Though, there are incriminating materials against present petitioner also. However,

considering the progress made in investigation and materials against the present petitioner as well as period of detention already undergone by the present petitioner, his further custodial detention does not appear to be necessary for fair completion of the investigation of the Changsari P.S. Case No. 130/2023.

In view of above, the petitioner, namely, *Ashraful Islam*, is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Kamrup, Amingaon, subject to the condition:-

- (i) That the petitioner shall cooperate with the Investigating Officer in completion of the investigation,
- (ii) 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 before the trial court.

With the above observation, this instant bail application is hereby disposed of.

Send back the case diary.

JUDGE

Comparing Assistant