

GAHC010122072023



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

Case No. : Bail Appln./1967/2023

RAJU RABHA
S/O LATE SARAT RABHA
R/O BHASKAR NAGAR, BY LANE NO. 4, NEAR PAN DUKAN STOPPAGE, P.S.
FATASIL AMBARI, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A LAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

12-06-2023

Heard Mr. A. Lal, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam.

This third Bail Application has been filed by the petitioner, namely, Raju Rabha, seeking bail as he is in custody since 29.03.2023 in connection with

Fatasil Ambari Police Station Case No.71/2023 registered under Sections 395/ 397/ 427 of the IPC.

In the FIR dated 28.03.2023, it was alleged by the informant, namely, Bimal Barman that on 27.03.2023 at about 11 P.M. a group of 10 to 15 youths attacked the informant and 3 (three) others in front of a shop near Battalion Gate. It was alleged that the group of miscreants specifically attacked the informant and took away his mobile phone, money bag and cash amount of Rs.2 lakhs as well as one gold chain from his colleague. They also broke the windows and door of his car. It was alleged that the miscreants attacked them with rod, bricks, belt, iron and knives. It was further alleged by the informant that he suspected one Sameer Mazumder who is the owner of "Sameer Store" near Battaliion Gate to be involved in the said incident. The said FIR dated 28.03.2023 was received and registered as Fatasil Ambari Police Station Case No.71/2023 registered under Sections 395/ 397/ 427 of the IPC and accordingly, the petitioner was arrested on 29.03.2023.

This Court by order dated 25.04.2023 rejected the Bail Application No.1273/2023 which was filed by the petitioner with a prayer for his bail. Subsequently, the petitioner filed a second bail application being Bail Appln No.1585/2023 which was also rejected on 22.05.2023 on the ground that no new grounds have been urged in the second bail application.

Learned counsel for the petitioner submits that the petitioner is in custody for 75 days (the petitioner was arrested on 29.03.2023). Learned counsel for the petitioner submits that a child was born to him on 10.06.2022 and in this regard, the learned counsel has referred to the birth certificate issued on 03.08.2022 by the competent authority. Learned counsel for the petitioner

further submits that the wife of the petitioner is undergoing various health issues and there is no one to look after her and their minor child in his family other than the petitioner. Learned counsel for the petitioner has referred to the medical certificate issued on 02.06.2023 by the Medical Officer of Dhirenpara FRU. As per the said certificate, the wife of the petitioner was suffering from viral hepatitis with fever and headache from the last few days and she has been under treatment and care in the said hospital since 26.05.2023. As per the certificate she is advised complete bed rest.

Under such circumstances, it is submitted that since the investigation is progressed sufficiently in the matter, further custodial detention of the petitioner may not be required and accordingly, he may be released on bail.

Mr. R.J Baruah, learned Additional Public Prosecutor submits that the investigation is going on in the matter. It is submitted that the injuries sustained by the informant are minor in nature although the items stated to have been snatched away by the informant have not yet been recovered.

The case diary, as called for, on 07.06.2023 has been produced by the learned Additional Public Prosecutor and the same has been carefully perused by this Court.

On perusal of the case diary, this Court finds that the investigation has progressed substantially, however, charge sheet has not been filed yet. The statements of the petitioner as well as other witnesses have been recorded in the meantime by the Investigating Officer. The case diary does not reveal any materials to suggest whether further custodial detention of the petitioner is necessary. No such materials are revealed from the case diary to suggest that the petitioner ought not to be released on bail at this stage. The perusal of the

case diary also does not reveal any materials to suggest that the release of the petitioner will hamper the progress of the investigation carried on if the petitioner is released on bail.

Taking into account all of the above as well as the period of detention undergone by the petitioner, this Court is inclined to allow this bail petition.

Accordingly, the petitioner, named above, shall be released on bail in connection with the above noted case, upon furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with 1 (one) local surety of like amount to the satisfaction of the Chief Judicial Magistrate (CJM), Kamrup(M), 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 Kamrup(M) without obtaining prior written permission from the Investigating Officer of 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 recall/cancellation of the bail granted to the

petitioner.

The Bail Application is accordingly allowed and disposed of.

Return the case diary.

JUDGE

Comparing Assistant