

GAHC010129572023



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

Case No. : Bail Appln./2054/2023

MOSTAB ALI
S/O- AFAJ UDDIN, R/O- VILL.- MAJORGAON, P.S. BARPETA, P.S. DAKUWA,
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MS P DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

30-06-2023

Heard Mr. P Choudhury, learned counsel for the petitioner and Mr. B Sharma, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC the petitioner, namely, **Mostab Ali**, is seeking bail in connection with **Sessions Case No. 209/2022** registered under Sections 120(B)/201/302 of IPC arising out of **Barpeta Police Station Case No. 338/2022**

corresponding to G.R. No. 672/2022 (PRC No. 631/2022), wherein he was arrested on 30.03.2022 and is in custody since then.

It is seen from the records of the case that was called for by the Court that said Sessions Case No. 209/2022 is in the trial stage and evidence of some of the prosecution witnesses have been recorded. It is also seen that the evidence of the complainant, PW-1 and his elder sister, PW-7, eye witness to the incident have been recorded and they were also cross-examined by the defence including the petitioner.

The petitioner is a charge-sheeted accused and the learned Sessions Judge, Barpeta on 07.01.2023 framed charges against the petitioner and other accused of the case under Sections 302/34 of IPC.

Perused the deposition of the PW-7, eye witness to the incident as well as her statement recorded under Section 164 CrPC by the learned Judicial Magistrate First Class, Barpeta on 23.03.2022.

It is seen from the deposition of the PW-7 as well as her 164 CrPC statement that the said eye witness indicated Mokdom Ali, son of late Shahed Ali; Jumma @ Abdur Rahman, son of Atowar Rahman and Chinto, son of Atowar Rahman of village-Azad Nagar, North Barpeta, District-Barpeta, who committed the said crime by stabbing the victim, i.e., the deceased, her younger sister in her presence. However, in the Case Diary it has been reflected that the accused Mokdom Ali employed the petitioner to murder the victim as he had some land dispute with the deceased.

Considering the deposition of the PW-7 as well as her statement recorded under Section 164 CrPC, the Court is of the view that further custodial detention of the petitioner is not warranted in said Sessions Case No. 209/2022 arising out of Barpeta P.S. Case No. 338/2022. As such, this bail application of the petitioner in said Sessions Case No. 209/2022 is accepted.

Accordingly, the petitioner, namely, **Mostab Ali**, be released on bail in said Sessions Case No. 209/2022 arising out of Barpeta P.S. Case No. 338/2022 on furnishing a bail bond of Rs.1,00,000/- with 2 (two) local sureties of the like amount, one of which shall be a

Government Employee (Central and/or State of Assam) to the satisfaction of the learned Sessions Judge, Barpeta on conditions that the petitioner shall – (i) appear before the learned Trial Court, i.e., the Court of the learned Sessions Judge, Barpeta in said Sessions Case No. 209/2022 arising out of Barpeta P.S. Case No. 338/2022 as and when the date(s) of the said case are fixed; (ii) not leave the territorial jurisdiction of the learned Sessions Judge, Barpeta, without obtaining prior written permission from the said authority; (iii) not hamper with the investigation, or tamper with the evidence of the case and (iv) not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer, failing which, the bail granted to them in the aforesaid Sessions Case No. 209/2022 shall stand automatically vacated.

Failure on the part of the petitioner to comply with the terms and conditions as specified above and any violation of the aforesaid terms and conditions by the petitioner, namely, **Mostab Ali**, bail granted to him in said Sessions Case No. 209/2022 shall stand automatically vacated.

This bail application accordingly stands allowed to the extent above, without entering into the merit of said Sessions Case No. 209/2022.

JUDGE

Comparing Assistant