

GAHC010132642023



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

Case No. : Bail Appln./2163/2023

MD BAIDULLAH KHAN
S/O MD. AMIR KHAN
R/O BOIRAGIMOTH, NIZKADOMONI
MALAKHUBASA,P.S. DIBRUGARH
DIST. DIBRUGARH, ASSAM
PIN CODE- 786001

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 27-06-2023

Heard Mr. I. Hussain, learned counsel for the petitioner. Also heard Mr. Bhaskar Sarma, learned Public Prosecutor for the State.

2. The petitioner, namely, Md. Baidullah Khan, who was arrested on 08.07.2022 in connection with Sessions P.S. case no.349/2022 arising out of Dibrugarh P.S. case no.390/2022 under sections 306/34 IPC with added sections 120-B/307 IPC is seeking regular bail by filing this application under section 439 Cr.P.C.

3. In the said case, charge has been framed against the petitioner of commission of offence under section 120(B)/307 IPC. The petitioner was arrested and taken into custody on 08.07.2022.

4. The learned APP has perused the scanned copy of the case records which is available in connection with the records of BA 3679/2022 and has opposed the prayer for bail on the ground that the petitioner is the prime accused in the death of the deceased. It is submitted that the deceased's father is the first witness to be examined by the prosecution and accordingly, it is submitted that if the petitioner is released on bail at this stage, he may threaten the witnesses.

5. The allegation against the petitioner is that he along with several other persons had threatened the deceased victim and threatened to sexually assault the minor daughter of the deceased victim. They had also entered the house of the deceased victim armed with several weapons and had attempted to evict the deceased and his father from the commercial premises.

6. Therefore it appears that there are sufficient incriminating materials against the petitioner of physically and mentally harassing the deceased victim as well as his father which led the deceased victim to commit suicide. Nonetheless, as the petitioner has spent more than 354 days in custody, considering the length of the detention, the Court is inclined to release the petitioner, namely, Md. Baidullah Khan on bail on furnishing bail bond of Rs.2,00,000/- (Rupees two lakh only) with two sureties of like amount to the satisfaction of the learned trial Court i.e. learned Addl. District and Sessions Judge, Dibrugarh. It is provided that out of two bailors, one bailor should offer his/ her immovable property as a security for grant of bail having sufficient value to cover the bail amount.

7. Bail is granted on the following conditions:

- (I) The petitioner shall make himself available to the police or any other investigating agency or Court in the present case as and when required.
- (II) 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 Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
- (III) The petitioner shall not obstruct the smooth progress of the investigation/trial.
- (IV) The petitioner shall not misuse his liberty in any manner.

- (V) The petitioner shall appear before the I/O within 15 (fifteen) days from the date of his release.
- (VI) The petitioner shall not leave the jurisdiction of Dibrugarh District without prior permission from the learned Trial Court.
- (VII) Along with the bail bond, the petitioner shall have to submit an undertaking in form of an affidavit that he shall not make any attempt to meet and/or threaten the informant or any other member of informant's family, or to dissuade them from giving evidence in Court. If such an attempt is brought to the notice of the learned Trial Court, it would be open to the said learned Court to order cancellation of this bail and to cause arrest of the petitioner as a measure to ensure safety of the witnesses.
- (VIII) In the undertaking in form of an affidavit to be submitted, the petitioner shall also undertake to physically appear before the learned trial Court on all dates fixed. The petitioner would also undertake that if he cannot appear for compelling reasons, he would ensure that he is duly represented by his learned Advocate, duly instructed to appear and cross-examine and/or examine any witness who is examined during his absence and in such an event, he would not dispute his identity or the identity of the witnesses.
- (IX) If any of the condition for grant of bail is not complied with, it would be open to the learned Trial Court to order cancellation of bail and/or for issuing fresh NBWA against the petitioner to secure his presence in trial.

8. Application stands disposed of.

JUDGE

Comparing Assistant