

GAHC010135952023



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

Case No. : Bail Appln./2170/2023

ANISH AHMED @ ANISUR RAHMAN
S/O MD. ABDUL MOTIN R/O VILL. MILONPUR WARD NO. 11 P.S.
MORIGAON DIST. MORIGAON ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 25.07.2023

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

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Md. Anish

Ahmed @ Md. Anisur Rahman, who has been detained behind the bar since 09.03.2022 in connection with Sessions Case No. 168/2022 arising out of Laharighat Police Station Case No. 132/2022 under section 120(B)/365/302/201/34 of the IPC.

The accusation in this case is that on 02.03.2022, one Mafizuddin lodged an FIR before the Officer-in-Charge of Laharighat Police Station, *inter-alia*, alleging that the closed persons named in the FIR namely, Rejina Khatun, Md. Anish Ahmed, Md. Nizam Uddin and Md. Moulla Ahmed had forcefully abducted the son of first informant in Santro vehicle and thereafter his son got missing and the first informant suspected that the accused persons named in the first information report had killed his son.

On receipt of the said FIR Laharighat Police Station Case No. 132/2022 was registered and investigation was initiated, ultimately on culmination of the investigation charge-sheet was laid against the six accused persons and including the present petitioners and by order dated 26.01.2022 charges under section 120(B)/365/302/201/34 was framed against the present petitioner.

Learned counsel for the petitioner has submitted that out of total 25 listed prosecution witnesses that the charge-sheet only six have been examined and the petitioner is languishing behind the bar since last 1 year 4 months 16 days (503 days) and he is the permanent resident of village Milonpur under Morigaon Police Station and there is no chance of absconding or tampering the evidence. It is submitted that in the meanwhile three of the co-accused namely, Md. Meraj Hussain, Md. Jakir Hussain and Rejina Khatun were already enlarged on bail.

I have also heard learned public prosecutor who opposed the grant of bail to the present petitioner on the ground that the present petitioner is main accused in the instant case.

I have heard the submission made by the learned counsel for both sides and perused the materials placed before me including the scanned copy of the LCR of Sessions Case No. 168/2022.

It appears that the instant case is based entirely on circumstantial evidence and out of 25 enlisted witnesses only six have been examined till now and at this pace it is unlikely that the trial would culminate at an early date. Moreover, considering the fact that the present petitioner has been languishing in jail for last 503 days whereas three of the co-accused are already enlarged on bail, this Court is of the considered opinion that if the present petitioner co-operates in his trial and abides by the condition which may be attached to his bail order, his custodial detention may not be necessary for fair completion of the trial of Sessions Case No. 168/2022.

In view of the accused Md. Anish Ahmed @ Md. Anisur Rahman is hereby allowed to go on bail on furnishing of bail bond of Rs. 50,000/- (Rupees Fifty Thousand only) with two sureties of like amount to the satisfaction of the learned Sessions Judge, Morigaon with following conditions that:

1. That the petitioner shall appear regularly on each and every date in the trial of Sessions Case No. 168/2022 and shall also appear before the Sessions Court, Morigaon as and when so required by the learned Sessions Judge, Morigaon.
2. That the petitioner shall not leave jurisdiction of learned Trial Court during the pendency of the trial of Sessions Case No. 168/2022 without prior leave of the trial court.
3. 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 or her from disclosing such facts to the

learned Trial Court.

With the above observations, this bail application is disposed of.

JUDGE

Comparing Assistant