

GAHC010136312023



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

Case No. : Bail Appln./2202/2023

MEHBUB RAHMAN BARBHUIYA @ BAPPI BARBHUIYA
S/O- LATE SAFIUR RAHMAN BARBHUIYA, VILL. SONABARIGHAT PART-I,
P.O. SONABARIGHAT, P.S. SILCHAR (SADAR), DIST.- CACHAR, ASSAM, PIN-
788013

VERSUS

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

Advocate for the Petitioner : MR. A M S MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

25.07.2023

Heard Mr. N.J. Dutta, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Addl. Public Prosecutor for the State.

2. This bail application under Section 439 Cr.P.C. has been filed by petitioner, namely, **Mehbub Rahman Barbhuiya @ Bappi Barbhuiya**, who has been

detained behind the bar since 25.05.2023 in connection with Silchar PS Case No. 3238/2021 under Sections 147/302/427 of the IPC.

3. The accusation in this case is that on 25.09.2021 one Dalim Hussain Mazumder lodged an FIR before the Officer In-charge of Silchar Police Station, *inter alia*, alleging that on 25.09.2021, the elder brother of the informant was assaulted by the accused i.e. the present petitioner causing severe injuries on his person. It is also stated in the FIR that when the injured person was brought to the house of the first informant, he said that the present petitioner had assaulted him on his chest. Later on, he was taken to the Silchar Medical College & Hospital, however, he was declared dead by the doctors. On receipt of the said FIR, Silchar P.S. Case No. 3238/2021 was registered.

4. The learned counsel for the petitioner submits that he has been falsely implicated in the FIR by the informant. It is submitted by the learned counsel for the petitioner that the deceased died due to natural death and to substantiate his submission, the learned counsel for the petitioner has submitted that on 02.09.2021, the deceased was taken to Silchar Medical College & Hospital where he was examined by the Doctor in OPD and one OPD token No. 55 was also issued to the deceased. It is stated by the learned counsel for the petitioner that in the OPD token which was issued to the deceased, Jasim Uddin Mazumder, the type of patient was shown as Non Medico Legal case i.e. non MLC and had there been any incident of assault it would not have been mentioned as a Non MLC case. Learned counsel for the petitioner also submitted that in this case, the petitioner has himself surrendered before the Court and he has been languishing behind the bar since last 62 days and police has not yet recorded his statement under Section 161 Cr.P.C.

5. On the other hand, learned Addl. Public Prosecutor has produced the

original case diary of Silchar P.S. Case No. 3238/2021 for perusal of this Court and hence submitted that on perusal of the case diary, it appears that the Investigating Officer has not recorded the statement of the present petitioner under Section 161 Cr.P.C.

6. I have perused the materials on record including the case diary of Silchar P.S. Case No. 3238/2021 as well as considered the submissions made by learned counsel for both sides.

7. Considering the materials available in the case diary as well as period of detention already undergone by the present petitioner (62 days), this Court is of considered view that further custodial detention of the present petitioner may not be necessary for fair completion of the investigation of Silchar P.S. Case No. 3238/2021, if the petitioner co-operates with the Investigating Officer of the said case.

8. In view of above, the present petitioner, namely, Mehbub Rhman Barbhuiya @ Bappi Barbhuiya, is 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, Cachar, Silchar with a condition that the petitioner shall co-operate with the Investigating Officer.

9. Let the case diary be sent back.

10. With the above observation, the instant bail application stands disposed of.

JUDGE

Comparing Assistant