

GAHC010137442023



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

Case No. : Bail Appln./2242/2023

SOURAV KALITA
S/O RATAN KALITA
R/O VILL- PIJUPARA
P.S. NAGARBERA
DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27-07-2023

Heard Mr. S. H. Hoque, learned counsel for the petitioner.

Also heard Mr. D. Das, learned Additional Public Prosecutor for the State of Assam.

By this application under section 439 Cr.P.C., the petitioner namely, Sourav

Kalita, is praying for bail, in connection with Alopatti Char P.S. Case No. 4/2023, under 302/328/34 of IPC as the petitioner is behind bar since 19.05.2023 (70 days).

The accusation in this case is that on 09.12.2022, the informant lodged an FIR before the Officer-in-Charge of Nagarbera Police Station, inter-alia, alleging that on the day of occurrence i.e on 24.10.2022, the accused persons named in the FIR including the present petitioner took the son of the first informant and got him admitted to Nagarbera PHC and thereafter fled away and later on, the son of the first informant died in the said hospital at about 9.30 am, on 25.10.2022. On receipt of the said information, the Alopatti Char P.S. Case No. 4/2023, under 302/328/34 of IPC has been registered.

The learned counsel for the petitioner has submitted that the petitioner is languishing behind the bar in connection with the instant case for last 70 days. It is also submitted that the petitioner only helped the deceased to be brought to the hospital for his treatment along with the other person named in the FIR. It is also submitted that no specific allegations has been made against the present petitioner in the FIR except the fact that after admitting the son of the informant in the hospital the present petitioner left away from there.

The learned Additional Public Prosecutor for the State has produced the case diary and submitted that on perusal of the post mortem report available in the case diary, it appears that the cause of death of the deceased could not yet been ascertained. Therefore the viscera of the deceased has been forwarded for FSL examination. It is also submitted that the Investigating Officer has meanwhile recoded the statements of witnesses under section 161 Cr.PC. and on perusal of the inquest report available in the case diary shows that no injury is stated to be found on the body of the deceased at the time of making the

inquest report.

Considering the submissions made by the learned counsel for sides and also on consideration of the materials placed before this Court including the case diary and the length of detention already undergone by the present petitioner i.e 70 days, this Court is of the considered opinion that further custodial detention of the present petitioner may not be necessary for fair completion of the trial in the aforementioned case.

In view of above foregoing discussions, the petitioner namely, Sourav Kalita is enlarged on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with one suitable surety of like amount, to the satisfaction of the learned Chief Judicial Magistrate, Barpeta in connection with Alopatis Char P.S. Case No. 4/2023, under 302/328/34 of IPC on the following condition:

- (i) That the petitioner shall not directly or indirectly make any threat or promise or induce any persons so as to dissuade him or her from disclosing any facts before the learned trial Court failing which bail order will be cancelled;
- (ii) that the petitioner shall co-operate with the investigation as and when called for.

With the observations made above, the bail application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant