

GAHC010140502023



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

Case No. : Bail Appln./2332/2023

ARTAF HUSSAIN @ MUNU
S/O- BABUL RAHMAN,
R/O- SATGAON, NEAR RAILWAY LINE,
P.S- SATGAON,
DIST- KAMRUP (M), ASSAM, GUWAHATI-71

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20.07.2023

Heard Mr. M. A. Sheikh, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State who has placed the scanned copy of LCR of Sessions Case No. 223/2022 pending before this Court.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Artaf Hussain @ Munu, who has been detained behind the bar since 23.06.2022 (since last 392 days) in connection with Sessions Case No. 223/2022 registered under Section 302 of the IPC (arising out of Satgaon P. S. Case No. 95/2022).

The accusation in this case is that on 23.06.2022, one Sega Marak, lodged an FIR before the Officer In-charge of Satgaon Police Station, inter-alia, alleging that on the night before lodging the FIR i.e. on 21.06.2022 at about 9.30 pm someone called his son over telephone and after receiving the phone call his son went out from the rented house.

However, in the morning at 5.00 am one of the neighboring girl informed the first informant that his son was lying on the road and the first informant found his son lying besides bye lane No. 6, Puberun Path in injury marks upon his left eye and neck and it is alleged that the son of the first informant was killed by some unknown persons.

On receipt of the said FIR, Satgaon P. S. Case No. 95/2022 was registered and investigation was initiated. Ultimately on culmination of the investigation charge-sheet was laid against the seven accused persons including the present petitioner.

It is also pertinent to mention that during the course of the investigation the present petitioner was arrested on 23.06.2022.

On 22.02.2023, charges under sections 302/201/120(B) were framed against the accused persons including the present petitioner to which the present petitioner pleaded not guilty and claimed to be tried.

Learned counsel for the petitioner submits that the petitioner who is aged about 23 years has been detained behind the bar since last 392 days and not even a single witness has yet been examined in the trial pending against him.

It is also submitted that in the meanwhile trial court had already allowed four of the co-accused namely, Babul Rahman, Padma Kumari, Imran Hussain and Hasinur Seikh @ to go on bail whereas the prayer for bail of the present petitioner was rejected on the ground that there is no guaranty that the present petitioner will appear before the Court regularly to face trial.

Learned counsel for the petitioner has also submitted that the present petitioner is the son of the co-accused Babul who has already been released on bail and a permanent resident of Satgaon near Railway Station line under Satgaon Police Station and he is ready to face trial if released on bail.

On the other hand learned Additional Public Prosecutor submits that there are several incriminating materials against the present petitioner in the case diary and has opposed grant of bail to the present petitioner.

I have considered the submissions made by the learned counsel for the petitioner as well as learned Additional Public Prosecutor.

I have also gone through the scanned copy of the case records of Sessions Case No. 223/2022, which was produced by the learned Additional Public Prosecutor.

It appears that the case of prosecution is entirely based on circumstantial evidence and there is no eye witness to the incident of the alleged offence against the present petitioner.

Be that as it may, as the four of the co-accused in this case have already been released on bail by the learned Trial Court and as there is no basis for

presuming that the present petitioner would jump bail if he is released on bail, moreover, considering the very long period of detention already undergone by the present petitioner (392 days) without a single witness being examined, this Court is of the considered opinion that his continued custodial detention may not be necessary for completion of the fair trial of Sessions Case No. 223/2022 pending before the Court of learned Sessions Judge No. 2, Kamrup (Metro).

In view of the above, the petitioner, namely, Artaf Hussain @ Munu, is allowed to go on bail on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount to the satisfaction of the learned Trial Court subject to the following condition that:

1. That the petitioner shall make himself available before the learned Trial Court as and when so directed by the learned Trial Court.
2. That the petitioner shall co-operate with the trial before the learned Trial Court.
3. 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 Trial court.

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

JUDGE

Comparing Assistant