

GAHC010142002023



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

Case No. : Bail Appln./2276/2023

RAJIB BORAH
S/O- SRI DEBA BORAH, R/O- VILL- JIAMORIA, P.O. AND P.S.
DHAKUAKHANA, DIST.- LAKHIMPUR, ASSAM

VERSUS

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

Advocate for the Petitioner : MR S GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

27.07.2023

Heard Mr. S. Gogoi, learned counsel for the petitioner. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor appearing for the State of Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Rajib Borah, who has been

detained behind the bars since 31.12.2021 (last 572 days), in connection with Sessions Case No. 20(N.L.)/2022 under section 447/326/307/302 of the Indian Penal Code.

This case was initiated on the basis of an FIR which was lodged by one Chandra Kamal Bora before the Officer-in-Charge of Dhakuakhana Police Station, *inter-alia*, alleging that on 31.12.2021, the present petitioner assaulted the brother of the first informant and caused grievous injuries on his person. On receipt of the said FIR, Dhakuakhana P.S. Case No. 02/2022 was registered under section 447/326/307 of the Indian Penal Code. Later on, section 302 was added. Ultimately, investigation was initiated and on completion of the investigation, charge-sheet was laid against the present petitioner.

The petitioner was arrested during the course of the investigation on 31.12.2021 and since then he is behind the bars. The learned Trial Court framed charge under section 302 of the Indian Penal Code against the present petitioner on 04.05.2022 and the petitioner is facing trial remaining behind the bars.

It is submitted by learned counsel for the petitioner that earlier also, the present petitioner had moved an application for bail before this Court which was rejected by the Court by order 27.03.2023 passed in Bail Application No. 843/2023. However, thereafter 4(four) months have lapsed one only one more witness has been examined since the rejection of the earlier bail order.

Learned counsel for the petitioner has submitted that as main witness has already been examined, no purpose would be served by keeping the present petitioner behind the bars as he would co-operate in his trial.

On the other hand, learned Additional Public Prosecutor submits that out of the 11(eleven) listed witnesses, 8 (eight) of the listed witnesses have already

been examined and she also submits that most of the eye-witnesses have already been examined.

Though, the learned Additional Public Prosecutor oppose the grant of bail to the present petitioner, however, considering the submissions made by learned counsel for both sides and also considering the fact that 8 (eight) of the 11(eleven) eye-witness have already been examined and the petitioner has been languishing behind the bars since 572 days, this Court is of the considered opinion that his further custodial detention may not be necessary for fair completion of the trial of Sessions Case No. 20(N.L.)/2022, if the present petitioner co-operates in his trial.

In view of above, the petitioner, namely, Rajib Borah, is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Additional Sessions Judge (FTC), Lakhimpur, North Lakhimpur, subject to the following conditions that (i) the petitioner shall co-operate with the investigation and shall make himself available before the learned Trial Court as and when so required by the learned Trial Court and 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.

With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant