

GAHC010152072023



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

Case No. : Bail Appln./2430/2023

BILESWAR BORI
S/O LATE ROMESH BORI
R/O VILL- LOLAT
P.O. JONAI, P.S. JONAI
DIST. DHEMAJI, ASSAM
PIN-787060

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. S M RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

17.07.2023

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

This is an application under Section 439 of the Code of Criminal Procedure, 1973 filed by the petitioner, namely, Sri Bileswar Bori, who has been detained behind the bars since 21.06.2023, on strength of non-bailable warrant of arrest issued against him by the Court of learned Sub-Divisional Judicial Magistrate (M), Jonai in connection with PRC Case No. 106/2022 (arising out of Jonai P.S. Case No.42/2022) under section 324/307/34 of the Indian Penal Code.

Learned counsel for the petitioner has submitted that in PRC Case No. 106/2022, which is pending before the Court of learned Sub-Divisional Judicial Magistrate(M), Jonai, the summons were issued to the present petitioner by the learned Trial Court.

However, the petitioner could not appear before the learned Trial Court and have filed petitions showing cause of his absence through his learned counsel on 09.09.2022 and subsequently, again on 26.10.2022 and 29.11.2022. Again on 20.12.2022, the petitioner could not appear before the learned Trial Court and he sought some more time for his appearance. However, the learned Trial Court rejected his petition and he issued non- bailable warrant of arrest against him and hence the petitioner was detained on the strength of the said non- bailable warrant of arrest.

It is also submitted by learned counsel for the petitioner that the petitioner had filed an application seeking bail before learned Trial Court. However, the same was rejected by the learned Trial Court on the ground that the charge-sheet has been laid *inter-alia* under section 307 of the Indian Penal Code which is triable exclusively by the Court of Session and on that ground alone, the prayer for bail was rejected.

Learned counsel for the petitioner also submits that the petitioner is a

permanent resident of Village Lolat, under Jonai Police Station and he is ready to face trial and ready to co-operate in his trial.

Learned counsel for the petitioner has also placed on record, by way of an additional affidavit, the Orders passed by learned Trial Court subsequent to the rejection of the bail.

I have perused the same.

Considering the submissions made by learned counsel for the petitioner as well as the facts of this case as revealed from the record, custodial detention of the present petitioner does not appear to be necessary if he co-operates in his trial. Hence the petitioner, namely, Sri Bileswar Bori is allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate(M), Jonai, subject to the condition that he shall make himself available on the dates as and when asked to do so, by the learned Trial Court.

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

JUDGE

Comparing Assistant