

GAHC010163042023



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

Case No. : Bail Appln./2657/2023

ROSHIDUL ALI
S/O LATE JAMAL ALI
R/O VILL- BHAWRAGURI, P.S. BIJNI
DIST. CHIRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.08.2023

Heard Mr. N.J. Dutta, learned counsel for the accused. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by the accused, namely,

Roshidul Ali, who has been languishing in jail hazot since 27.04.2023, in connection with Bijni P.S. Case No.62/2023, under Section 120(B)/398/399/400/402 IPC.

3. It is to be noted here that Bijni P.S. Case No.62/2023 under Section 120(B)/398/399/400/402 IPC was registered on the basis of one F.I.R. lodged by informant Benudhar Medhi on 27.04.2023. The essence of allegation made in the FIR is that acting on a tip off the informant along with other police officers of Bijni P.S. intercepted one vehicle bearing Registration No.AS-19D-7473, and another vehicle bearing Registration No.AS-19AC-4245, and apprehended one Kutub Ali, Anisur Alam, Mahbubur Rahman, Hobu Sk, Ashraf Ali, Basher Ali Akand, Abdul Majid and Roshidul Ali from the same and also recovered one khukuri, one sword, one dagger, one pliers and one screw driver from their possession while they were proceeding to commit dacoity in the Ballamguri Police Out Post area under Bijni P.S.

4. Mr. Dutta, learned counsel for the accused submits that the accused was arrested on 27.04.2023, and since then he has been languishing in jail hazot for last 115 days. Referring to an order of this Court in Bail Appln. No.1644/2023 dated 06.06.2023, Mr. Dutta submits that some of the co-accused have already been enlarged on bail by this Court and that the I.O. has already completed investigation and submitted the charge-sheet and the case is pending before the Court of learned Sub-Divisional Judicial Magistrate, Bijni and charges are yet to be framed against the accused person. Mr. Dutta further submits that the accused is ready to face trial and will appear before the learned Court below regularly and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor submits that the investigating agency has collected sufficient incriminating materials against the accused and submitted charge-sheet against him and the case is pending at the stage of consideration of charge before the learned Court below and therefore, Mr. Baruah has

opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the scanned copy of the record received from the learned Court below.

7. It appears that the accused, along with 6 others, have been chargesheeted to stand trial under Section 120(B)/398/399/400/402 IPC. Further, it appears that the I.O. has cited as many as 16 witnesses in the charge-sheet. Charge is yet to be framed and there is no immediate prospect of conclusion of trial. Having regards to above, and also having regards to the submission of learned Advocates of both sides, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bail bond of ₹ 50,000/- with two sureties of like amount to the satisfaction of the learned Court below, the accused be enlarged on bail.

8. In terms of above, this bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant