

GAHC010164262023



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

Case No. : AB/2590/2023

SATTAR ALI @ SATTAR ALI SK
SON OF LT. JAHER ALI
VIL- BELTOLI, BANGALDOBA PT.II
P.O. NAYEKGAON
P.S. KOKRAJHAR
DIST. KOKRAJHAR, ASSAM
PIN-783376

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR R SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 08.08.2023

Heard Mr. R. Sarkar, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor for the State.

This is an application under Section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, *Sattar Ali @ Sattar Ali Sk*, who is apprehending arrest in connection with Kokrajhar P.S. Case No. 222/2023 under Sections 143/342/325/323/307/354/379 of IPC.

The accusation in this case is that on 14.06.2023, one Sanowar Hussain, lodged an FIR before the Officer-in-Charge of Kokrajhar Police Station, *inter alia*, alleging that when father of the first informant went to enquire about some approval of PMAY-G House shown to have been allotted to his name, the accused persons named in the FIR including the present petitioner tied his father with a rope and assaulted him.

It is also alleged in the FIR that informant along with his two brothers and his mother went there they were also assaulted by the accused persons named in the FIR including the present petitioner.

Learned counsel for the petitioner submits that there was an altercation between the father of the informant as well as accused No. 1 who is the brother of the present petitioner, he went there only to pacify the parties involved in the altercation.

It is also submitted that the present petitioner is apprehending arrest in connection with the said case as Police is searching him and his elder brother i.e. accused No. 1 was apprehended long ago and was allowed to go on bail today itself.

On the other hand, learned Additional Public Prosecutor submits that there are incriminating material against the present petitioner in the case diary and the injuries suffered by the victim has been shown to be grievous in nature by the doctor in the Injury Report and as the present petitioner is absconding, he may not be given the benefit of favouring him by an order under Section 438 of

the Cr.P.C.

I have perused the case diary as well as considered the submissions made by learned counsel for both sides.

Though, the injury shown to have been suffered by the victim is stated to be grievous in nature in the Injury Report. However, on perusing the description of the injury, it appears that the victim suffered a swelling on neck with difficulty in breathing, chest pain and trauma in left ear which apparently does not justify the observation made by the doctor showing the injuries to be grievous in nature. However, without making any further comment on the Injury Report and considering the fact that the Investigating Officer has already examined the witnesses who have seen the incident and sufficient progress has been made in the investigation only the statement of the present petitioner is to be recorded.

Considering the materials in the case diary and progress made in the investigation, I am of the considered opinion that if the petitioner cooperates with the Investigating Officer, his custodial detention may not be necessary for fair completion of the investigation of this case.

In view of the above, the present petitioner, namely, *Sattar Ali @ Sattar Ali Sk* is hereby directed to appear before the Investigating Officer within a period of ten day from the date of this order and cooperate in the investigation. If he does so within the stipulated period of time, he shall be allowed to be released on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of the Investigating Officer, subject to the condition:-

- (i) That the petitioner shall cooperate with the investigation of this case,
- (ii) That the petitioner shall not directly or indirectly

make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade him or her from disclosing such facts before Investigating Officer or to any Court.

With the above observations, the bail application is hereby disposed of.

JUDGE

Comparing Assistant