

GAHC010175222023



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

Case No. : Bail Appln./2809/2023

SHAFIKUL ISLAM
S/O AKKASH ALI
R/O VILL- JOSHIHATIPARA
P.O. JOSHIHATIPARA
P.S. HOWLY
DIST. BARPETA, ASSAM
PIN-781316

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A A DEWAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 11.08.2023

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

This is an application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Shafikul Islam*, who is facing trial

in Sessions Case No. 107/2023 pending before the Court of learned Sessions Judge, Barpeta arising out of Howly P.S. Case No. 78/2023 under Section 366(A)/34 of IPC.

It also appears that the victim has been facing trial remaining in custody since 27.04.2023 (111 days).

Learned counsel for the petitioner submits that the victim was handed over to the Police by the petitioner himself during the course of investigation which is reflected from the testimony of the victim before the learned trial court. It is also submitted that already three witnesses including the victim as well as informant have been examined in the trial and there is no justification of keeping the informant behind the bar on that ground the prayer for bail is made.

On the other hand, learned Additional Public Prosecutor opposes the grant of bail to the present petitioner on the ground that three witnesses are yet to be examined and there are incriminating evidence against the present petitioner.

I have considered the submissions made by learned counsel for both sides as well as perused the materials on record along with the annexures annexed with the present bail application.

It also appears from the record that the petitioner has been detained behind the bar since last 111 days and, in the meanwhile, the victim as well as the first informant have already deposed before the Court of learned Sessions Judge, Barpeta in Sessions Case No. 107/2023 arising out of Howly P.S. Case No. 78/2023.

Considering the above facts, this Court is of opinion that there is no probability of influencing the main witnesses now and, hence, custodial

detention of the present petitioner does not appear to be necessary for fair culmination of trial, if he cooperates in his trial.

In view of the above, the present petitioner, namely, *Shafikul Islam* is allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only with one surety of like amount to the satisfaction of learned Sessions Judge, Barpeta, subject to the condition:-

- (i) That the petitioner shall appear before the learned trial court in the connection with the pending trial as and when so required by the learned trial court,
- (ii) That the petitioner shall not influence the witnesses who are yet to be examined in the trial in any manner.

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

JUDGE

Comparing Assistant