

GAHC010181152023



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

Case No. : Bail Appln./2935/2023

JAKIR HUSSAIN CHOUDHURY @ BELOWAR @ ZAKIR HUSSAIN
CHOUDHURY @ BELOWAR AHMED CHOUDHURY
S/O LATE JALAL UDDIN CHOUDHURY
@ ABDUL JALIL CHOUDHURY
VILL- RANGPUR PART-IV,
P.O. RONGPUR, P.S. KATLICHERRA
DIST. HAILAKANDI, ASSAM, PIN-788161

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H I CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

23.08.2023.

Heard Mr. A.S. Tapadar, learned counsel for the accused and also
heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicant, namely, **Jakir Hussain Choudhury @ Belwar @ Zakir Hussain Choudhury @ Belwar Ahmed Choudhury**, who has been languishing in jail hazot in connection with the **Katlichera P.S. Case No. 109/2023**, under Sections **120(B)/342/325/307 IPC**, subsequently, added section **302 IPC**, for granting bail.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR lodged by one Rusna Begum Talukdar on 12.06.2023.

4. The essence of allegation made in the said FIR is that on 21.06.2023, one Belwar @ Jakir Hussain Chaudhury called her husband Saidur Rahman Talukdar over phone to load betel nut at Manipur and accordingly her husband went out from home at midnight for loading betel nut along with Anowar Hussain Talukdar and Sabul Ahmed. But on the next day morning, the complainant came to know that her husband was brutally assaulted and left on roadside fastening his hand and feet.

5. Mr. A.S. Tapadar, learned counsel for the accused submits that the accused is innocent and no way involved in the offence alleged in the FIR. Mr. Tapadar further submits that the accused was arrested on 04.07.2023, and since then he has been languishing in jail hazoot for last 50 days and that he is ready to cooperate with the investigating agency and that his further custodial detention may not be required in the interest of investigation, and therefore, it is contended to allow the petition.

6. Per contra, Mr. P.S. Lahkar, the learned Addl. P.P. has vehemently opposed the petition on the ground that the husband of the complainant who was admitted at Silchar Medical College Hospital [SMCH] for treatment, succumbed

to the injuries on 28.06.2023, and thereafter, the Section 302 of the IPC is added and investigation is going on and if the accused is enlarged on bail, at this stage, it will hamper the investigation and that the co-accused persons are yet to be arrested, and therefore, Mr. Lahkar contended to dismiss the petition.

7. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. PP.

8. It appears from the case diary that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR. The husband of the complainant died subsequently in the SMCH, during the course of treatment on 28.06.2023 and on the prayer being made by the I.O. the learned court below had added section 302 of the IPC, and investigation is going on and that co-accused persons are yet to be arrested and the investigation is in nascent stage and if the accused is enlarged on bail, at this stage, it will misdirect the investigation.

9. Having considered aforementioned facts and circumstances and also having considered the nature and gravity of the offence and the punishment prescribed for the same as well as the submission of learned Advocates for both the sides, this Court is of the view that this is not a fit case where the accused can be enlarged on bail.

10. Accordingly, the petition stands dismissed.

11. The case diary be returned.

JUDGE

Comparing Assistant