

GAHC010188702023



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

Case No. : Bail Appln./2977/2023

OSMAN ALI @ BAGHA
S/O LATE KASEM ALI SK.
R/O VILL- NO. 1,
HOWRIAPET, POST OFFICE SAPKATA
SAPKATA-I, KOKRAJHAR, ASSAM
PIN-783360

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A LAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 20-09-2023

Heard Mr. A Lal, learned counsel for the applicant and Ms. S H Bora, learned Addl. PP, Assam appearing for the state respondent.

This application under section 439 of the Code of Criminal Procedure, 1973 is preferred by accused, namely, ***Osman Ali @ Bagha*** who was arrested on 19.02.2023 in connection with ***Sessions***

Case No.T2/70/2023 under sections **326(A)/307/34 IPC**
(Gossaigaon PS Case No.124/2023).

The aforesaid prosecution case was launched on the basis of an FIR dated 17.02.2023 whereby it was alleged that one Rashida Begum and one Maruf Ahmed committed the offence as well as their family members are also involved in the case. The present petitioner is not named as accused in the FIR.

The learned counsel for the applicant submits that the prime accused Rashida Begum has already been granted bail by this court under its order dated 17.05.2023 in Bail Appln No.1495/2023 and the said named accused Maruf Ahmed has also been granted bail by this Court in Bail Appln No.1114/2023 vide order dated 06.04.2023. However, the present applicant has not approached this court seeking bail as he was not named in the FIR and in the meantime, the charge sheet has been filed.

From the charge sheet it is seen that the applicant has been arrayed as accused for two reasons, firstly that the phone number used by the prime accused Rashida Begum belongs to the present applicant and secondly, the present applicant has confessed his guilt before the Investigating Officer.

The statement of the victim has already been recorded under section 164 Cr.P.C.

Considered the matter in its entirety including the fact that the co-accused/prime accused has already been granted bail and the applicant is arrayed as accused only on the basis of his confessional statement before the investigating authority under section 161 Cr.P.C.

Accordingly, this court is of the view that further custodial detention of the applicant will not serve any purpose including any aid to the trial. Accordingly, the present application is allowed.

Accordingly, it is directed that the applicant, above named, in connection with the aforementioned case be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- (Rupees fifty thousand only) with one solvent surety of the like amount to the satisfaction of the learned Additional Sessions Judge, Gossaigaon with the following conditions:

I. The applicant shall appear before the Trial Court on each and every date fixed until the learned trial court dispenses his appearance on any date on proper application being filed

II. The applicant shall not leave the territorial jurisdiction of the aforesaid police station without prior written permission from its officer in charge;

III. The applicant shall not hamper with the investigation of the case and tamper with the evidence of the case;

IV. The applicant shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

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

JUDGE