

GAHC010194352023



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

Case No. : Bail Appln./3060/2023

SUMAR ALI @ GONESH
S/O KABEL ALI VILL. JOMDUWAR P.S CHAPAR PIN 787031 DIST. DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

15.09.2023

Heard Mr. M. A. Sheikh, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of regular bail to the accused/applicant, who has been languishing in jail since 10.08.2023 in connection with Bilasipara P.S. Case No. 265/2022 (PRC No.861/2023), registered under Sections 447/427/525/326/34 read with Section 302 of IPC.

3. The LCR has been received and I have perused the same.

4. Mr. M. A. Sheikh, learned counsel for the applicant has submitted that the accused/applicant is innocent and he is not involved in the alleged; neither his name was reflected in the FIR nor in the charge-sheet filed against the other co-accused persons. However, the police arrested the applicant on 10.08.2023 and forwarded him to the Court in connection with Bilasipara P.S. Case No. 265/2022 under Sections 447/427/525/326/34 *read with* Section 302 of IPC. And only after arresting the applicant, the police submitted supplementary charge-sheet, where the name of the applicant was mentioned. He further submitted that the case is in appearance stage and summons were issued to the other co-accused persons, who are on bail. More so, he is behind the bar for 38 days, thus, the I.O. got ample opportunity to interrogate the accused/applicant keeping him in custody. Further, he is ready to co-operate with the I.O. in further investigation of this case if he is enlarged on regular bail.

5. In this context, Mr. B. Sarma, learned Additional Public Prosecutor has submitted that the case was earlier registered under Sections 447/427/525/326/34 of IPC, but, considering the death of the deceased due to injuries sustained by him, later Section 302 of IPC was added. He also submitted that there is a sufficient incriminating material available against the present accused applicant and even most of the witnesses mentioned his name as involved in the alleged offence. He further submits that it is not a fit case to allow the applicant to go on regular bail at this stage.

6. Mr. M. A. Sheikh, learned counsel for the applicant has also submitted that the principal of parity should be applicable in the case of the present accused/applicant, as the other co-accused persons were released on bail and same should be granted to him.

7. Considering the submissions made by the learned Advocates of both sides as well as after perusing the LCR and also considering the supplementary charge-sheet which was filed after collecting a material from the I.O as per direction of the O.C. concerned, it is seen that the other co-accused persons were issued summon by the learned Trial Court, and thus, the case is ready for committal.

8. So considering the entire aspect of the case, and also considering the fact that the case is ready for committal and I find it not a fit case to grant the regular bail to the accused/ applicant and accordingly, the same stands rejected with a direction to apply for fresh bail application before the learned Trial Court.

9. In terms of above, this bail application stands dismissed.

10. LCR be sent back.

JUDGE

Comparing Assistant