

GAHC010199712023



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

Case No. : Bail Appln./3141/2023

DIBAN DEKA
S/O SRI BHUBAN DEKA
PRESENTLY RESIDING AT GREEN VIEW RESIDENCY, GURUKUL
GRAMMER SCHOOL PATH, FLAT NO. 2B, 2ND FLOOR, P.S. GEETANAGAR,
PERMANENT RESIDENT OF H/NO.05, GIRI PATH, MOTHER TERESA ROAD,
P.S. GEETANAGAR, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R SARMA
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

16.10.2023

Heard Mr. R. Sarmah, learned counsel appearing for the accused petitioner as well as Mr. D. P. Goswami, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Diban Deka**, has prayed for grant of bail in connection with **Chandmari PS Case No. 318/2023 under Sections 120-B/306/384 of the IPC read with Section 67A of the I.T.Act.**

The case diary, as called for, is placed before the Court.

Mr. R. Sarmah, learned counsel appearing for the accused petitioner, submits that the accused has been languishing in judicial custody for 59 days despite being absolutely innocent making him the victim of circumstances. Mr. Sarmah further submits that the accused had never transmitted sexually explicit photograph to any person and had never collected illegal money. Therefore, Mr. Sarmah submits that considering the length of detention, the accused may be directed to be released on bail subject to any condition.

Mr. D. P. Goswami, learned Additional Public Prosecutor had conceded to the submission made by Mr. Sarmah.

The F.I.R. reveals the allegation of committing suicide of the victim for uploading sexually explicit photograph in social media by one co-accused Anurag Chaliha.

It is noticed that the accused petitioner has been in judicial custody since 19.08.2023, that is, for 58 days.

Perused of the bail objection petition filed by the investigating officer, which does not show sufficient incriminating material against the accused.

The post-mortem report shows that the cause of death of the deceased has been kept pending till receipt of the chemical/toxicological analysis report from the F.S.L., Assam. The F.S.L. report is yet to be received.

A perusal of the case diary, *inter alia*, reveals that a number of electronic gadgets seized from different accused persons are sent to the CFSL, Kamrup for data extraction and the report is yet to be received.

The prime suspect of the case is not arrested. The investigation is yet to be

completed.

Having heard the learned counsel of both sides, perusal of the case record and the nature of evidence so far collected by the investigating officer and further, the quantum of punishment prescribed for the alleged offences, this Court is of the considered opinion that further continuation of detention of the accused petitioner is not warranted.

Therefore, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand)** with two sureties of like amount to the satisfaction of learned **Chief Judicial Magistrate, Kamrup(M)** subject to the following conditions-

- (i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and
- (ii) That the accused petitioner 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 him from disclosing such facts to the Police Officer or the Court.

Breach of any of the above conditions shall render cancellation of bail in accordance with law.

Return the case diary.

The bail application is disposed of.

JUDGE

Comparing Assistant