

GAHC010199742023



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

Case No. : Bail Appln./3140/2023

NIPU HANDIQUE
S/O SRI SANJIB HANDIQUE @ HARICHANDRA HANDIQUE
R/O NO. 1 KHOLIHAMARI VILLAGE
P.O.JURKATA
P.S. DHEMAJI
DIST. DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR B BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 25.09.2023

Heard Mr. B. Bora, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Nipu Handique who has been detained behind the bar since 19.08.2023 (37 days) in connection with Ghilamara P. S. Case No. 46/2023 under Section 341/326/302/34 of the Indian Penal Code.

The accusation in this case is that on 17.08.2023 one Sri Hira Saikia had lodged the FIR before the Officer-in-Charge of Ghilamara Police Station, naming three accused in the FIR, including the present petitioner, *inter-alia*, alleging that on 15.08.2023 at about 2.00 PM, the nephew of the first informant namely, Atul Saikia went along with FIR named person for a picnic at Habung Than and it is alleged that there the nephew of the first informant was assaulted by the accused persons including the present petitioner, as a result of which he got the grievous injuries on different parts of his body.

It is also stated in the FIR that later on the FIR named accused persons informed the informant over telephone that his nephew has been admitted in Bengengora Hospital. It is further stated in the FIR later on the nephew of the first informant was shifted to Dibrugarh Medical College for better treatment.

On receipt of the said FIR, Ghilamara P. S. Case No. 46/2023 was registered.

It is pertinent to mention herein that after lodging of the FIR, the nephew of the first informant expired and Section 302 was added in the case.

Learned counsel for the petitioner has submitted that the petitioner along with deceased went for a picnic to Habung Than and had consumed liquor and thereafter, they returned back from there on two separate motor bikes and the

deceased was riding on pillion with one Homen Saikia who is also named accused in the FIR and while returning back, their motorcycle met with an accident and thereafter the deceased was taken to hospital. It is submitted that the present petitioner returned back on a different motorcycle and he had not witnessed the accident himself, however, he came to know about the accident from the co-accused Homen Saikia.

Learned counsel for the petitioner submitted that this is a case of assault but a case of sustaining injuries due to vehicular accident.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Ghilamara P. S. Case No. 46/2023 and has pointed out to this Court the statement made by Dr. H. Bordoloi, who has stated in his statement made under Section 161 of the Code of Criminal Procedure, 1973, that on 15.08.2023, the deceased was brought to their hospital in injured condition and he was in a position to talk at that time and he informed that he met with an accident.

It is also submitted by the learned counsel for the petitioner that the investigation has fairly progressed.

I have perused the case diary.

Considering the submissions of learned counsel for both sides, progress made by the investigating officer in the investigation of the case and period of detention already undergone by the present petitioners, further custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of Ghilamara P. S. Case No. 46/2023.

In view of the above, the present petitioner, namely, Nipu Handique is hereby allowed to go on bail on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount to the satisfaction of

the learned SDJM (M), Dhakuakhana, Lakhimpur with a condition that the petitioner shall co-operate with the Investigating Officer of investigation of Ghilamara P. S. Case No. 46/2023.

This bail application is accordingly disposed of.

Sent back the case diary.

JUDGE

Comparing Assistant