

GAHC010204042023



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

Case No. : Bail Appln./3253/2023

DIGANTA KUMAR KONCH
S/O SRI ANIL KONCH
R/O BORPAK GOWALDOI VILLAGE, BORHOLA,
P.O. MACHKHOWA
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 : 03.10.2023

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, Diganta Kumar

Konch who has been detained behind the bar since 19.08.2023 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.

Mr. B. Bora, learned counsel for the petitioner has submitted that the petitioner went to a picnic along with his friends including the deceased to the Habung Than and had consumed liquor and thereafter, they returned back on two separate motor bikes.

It is also submitted that while returning back they came on two separate motor bikes and the deceased was riding on pillion with one Homen Saikia who is also named in the FIR.

Learned counsel for the petitioner has submitted that the present

petitioner was informed about the incident over telephone by the co-accused Homen Saikia who informed them about the accident and thereafter the present petitioner went to the place where the accident occurred and took the injured to the hospital.

It is also submitted by the learned counsel for the petitioner that this is not a case of assault, but a case of sustaining injuries due to vehicular accident.

It is also submitted by the learned counsel for the petitioner that one of the co-accused Nipu Handique has already granted bail by this Court on 25.09.2023 in Bail Application No. 3140/2023.

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 that one of the witnesses who was examined by the Investigating Officer namely, Dr. H. Bordoloi, who examined the injured when he was brought for medical treatment to him as stated before the Investigating Officer that the deceased prior to his death has informed the said witness that they met with an accident.

It is also submitted by the learned Additional Public Prosecutor that the investigation has fairly progressed.

I have perused the case diary.

Considering the submissions of learned counsel for both sides and considering the fact that one of the co-accused has already granted bail as well as considering the progress made in the investigation of the case and period of detention already undergone by the present petitioner, 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, Diganta Kumar Konch is hereby allowed to go on bail Rs. 30,000/- (Rupees Thirty Thousand

only) 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