

GAHC010205142023



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

Case No. : Bail Appln./3259/2023

ROHIM SK @ ABDUL ROHIM
S/O- ABUL SK @ ABUL HUSSAIN @ ABUL ALI, VILLAGE- HATIMURA, P.S.
LAKHIPUR, P.O. HASHDOBA, DIST.- GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR Z HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04-10-2023

1. Heard Mr. M Hoque, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam.
2. This application has been made under section 439 of the Code of Criminal Procedure, 1973 by the petitioner Rohim Sk @ Abdul Rohim who has been detained behind the bar since 24.07.2023 (since last 72

days) in connection with Lakhipur PS Case No.160/2023 under sections 143/436 IPC.

3. The gist of accusations against the present petitioner, in brief, is that on 05.05.2023 one Gazibur Rahman lodged an FIR naming 23 accused persons in the FIR including the present petitioner at serial No.9 of the FIR, inter alia, alleging that on 29.04.2023 a quarrel took place between FIR named accused persons and the brother of the first informant, namely, Santosh Ali and thereafter, on the next date i.e., on 30.04.2023 at about 3.00 PM the accused persons named in the FIR trespassed into the house of the brother of the informant armed with deadly weapons and set the house of the brother of the informant on fire, destroying the articles and the said house. On receipt of the said FIR, Lakhipur PS Case No.160/2023 under sections 143/436 IPC was registered.

4. The learned counsel for the petitioner has submitted that the petitioner is no way involved in the allegation leveled in the FIR. It is submitted by the learned counsel for the petitioner that on the date of the alleged offence the petitioner was in Meghalaya. It is also submitted that prior to lodging of this FIR by the first informant, one Rejina Begum had lodged an FIR against the brother of the first informant Gazibur Rahman and the present FIR against the petitioner has been lodged as a counter blast to the said FIR.

5. On the other hand, the learned Additional Public Prosecutor has produced the case diary of Lakhipur PS case No.160/2023 and has submitted that though 23 accused persons have been named in the FIR, however, till now nobody except the present petitioner has been

arrested. It is also submitted that there are incriminating materials against the present petitioner in the case diary.

6. I have considered the rival submissions made by the learned counsel for both the sides and have perused the case diary of Lakhipur PS Case No.160/2023.

7. Though there is incriminating materials against the present petitioner in the case diary as one of the witnesses who was examined by the investigating officer under section 161 Cr.P.C has stated that he had seen the present petitioner on the date of the alleged offence at the place of occurrence. However, considering the fact that the present petitioner has already undergone 72 days of detention behind the bars, his further custodial detention does not appear to be necessary for fair completion of the investigation of the case, if he cooperates with the investigating officer.

8. In view of above, accused Rohim Sk @ Abdul Rohim is hereby allowed to go to on bail of Rs.30,000/- with one suitable surety of the like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Goalpara with condition that the present petitioner shall continue to cooperate in the investigation.

9. With the above, this bail application stands disposed of.

JUDGE

Comparing Assistant