

GAHC010207532023



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

Case No. : Bail Appln./3305/2023

DIPANKAR BORAH
S/O- LT. GOLAP BORAH, VILL- MADHYAMKHANDA, P.S. BISWANATH
CHARIALI, DIST.- BISWANATH, ASSAM, PIN- 784176

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR D K MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 06.10.2023

Heard Mr. D. K. Medhi, learned counsel for the petitioner. Also heard Mr. K. Baishya, 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, Dipankar Borah who has been detained behind the bar since 18.08.2023 (last 49 days) in

connection with Case No. Biswanath Chariali P. S. Case No. 103/2023 under Sections 120B/302/294 of the Indian Penal Code.

The gist of accusation in this case in brief is that on 16.08.2023 one Shri Ratneswar Katakya before the Officer-in-Charge of Biswanath Chariali Police Station, *inter-alia*, alleging that on 15.08.2023 accused persons namely, (1) Sasanku Hazarika, (2) Hunmoni Das, (3) Akash Bora and (4) Bipul Das came to his residence and took away his son Sasanka Katoky for a picnic. Later on at 5.30 PM the said accused persons again came and enquired about Sasanka, as to whether he has returned back to home or not and on suspicion they were apprehended by the villagers. Later on the next day morning, the dead body of Sasanka was recovered from Burhigang River near Burhigang Sluice Gate.

It is also stated in the FIR that the present petitioner was having an affair with the wife of the deceased Sasanka and fifteen days before the alleged incident, he had threatened Sasanka of killing him and therefore, it is suspected that the present petitioner is also involved in the killing of the son of the first informant.

On receipt of the said FIR, Biswanath Chariali P. S. Case No. 103/2023 was registered.

Mr. D. K. Medhi, learned counsel for the petitioner has submitted that the present petitioner is a 19 year old boy and his name has been falsely implicated in the FIR. It is also submitted that though it is alleged that 15 days prior to lodging of FIR the present petitioner had threatened the deceased, however, no FIR has been lodged in that connection.

It is also submitted by the learned counsel for the petitioner that the present petitioner has been arrested merely on suspicion.

It is further submitted by the learned counsel for the petitioner that he has

already been languishing behind the bar since last 49 days and therefore, it is prayed that he may be allowed to go on bail.

On the other hand, Ms. N. Das, learned Additional Public Prosecutor has produced the case diary of Biswanath Chariali P. S. Case No. 103/2023 and has submitted that there is evidence on record to suggest that the present petitioner was having affair with the wife of the deceased and there is every possibility of his being involved in the killing of the deceased Sasanka.

She has vehemently opposed the grant of bail to the present petitioner.

I have considered the rival submissions made by learned counsel for both sides and have perused the materials in the case diary.

On perusal of the case diary it appears that the deceased Sasanka appears to have died due to drowning and at this stage, apart from merely suspension, there is nothing to implicate the present petitioner in the offence alleged in the FIR, hence, his further custodial detention is not justified for sake of fair completion of the investigation.

In view of the above, the petitioner namely, Dipankar Borah, 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 Chief Judicial Magistrate, Biswanath Chariali, Biswanath subject to conditions that the petitioner shall continue to co-operate with the Investigating Officer of the Biswanath Chariali P. S. Case No. 103/2023

With the above observations, this bail application is accordingly disposed of.

Sent back the case diary.

JUDGE

Comparing Assistant