

GAHC010209592023



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

Case No. : Bail Appln./3338/2023

HUMEN SAIKIA @ HUMAN
S/O- SRI BIREN SAIKIA, RESIDENT OF MAJKHUWA BILOTIA VILLAGE,
POST OFFICE- MAJKHOWA, POLICE STATION- DHEMAJI, DISTRICT-
DHEMAJI (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR B BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04-10-2023

1. Heard Mr. B Bora, 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 Humen Saikia @ Human,

who has been detained behind the bar since last 19.08.2023 (since last 47 days) in connection with Ghilamara PS Case No.46/2023 under sections 341/326/302/34 IPC.

3. 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.

4. 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.

5. The learned counsel for the petitioner has submitted that the present petitioner went for a picnic along with the deceased and three of his other friends to Habung Than and consumed liquor and thereafter they returned back on two separate motor bikes. The present petitioner was carrying the deceased as a pillion rider in his motor bike and while returning back they met with an accident. It is further submitted by the learned counsel for the petitioner that it was the present petitioner who informed his other friends about the said accident and thereafter took the injured to the hospital where he

succumbed to his injuries.

6. It is submitted by the learned counsel for the petitioner that this is not a case of assault as alleged in the FIR but a simple case of sustaining injuries due to vehicular accident.

7. On the other hand, the learned Additional Public Prosecutor has produced the case diary of Ghilamara PS case No.46/2023 and has pointed out to the Court a statement made by the Dr. A Gogoi who has examined the deceased prior to his death when he was brought to the hospital. It is stated by Dr. Gogoi in his statement under section 161 of the Code of Criminal Procedure to the investigating officer that when the injured was brought to the hospital he was in a position to speak and he informed the doctor that he met with an accident.

8. It is also submitted by the learned Addl. PP that otherwise also the investigation has fairly progressed.

9. Considering the submission made by learned counsel for both the sides, as well as materials in the case diary and the progress made in the investigation, further custodial detention of the petitioner does not appear to be necessary for fair completion of investigation of Ghilamara PS Case No.46/2023.

10. In view of above, the present petitioner namely Humen Saikia @ Human 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 SDJM (M), Dhakuakhana, Lakhimpur with a condition that the present petitioner shall continue to cooperate with the investigating Officer in the investigation of Ghilamara PS Case No.46/2023.

11. With the above, this bail application stands disposed of.
12. Send back the case diary.

JUDGE

Comparing Assistant