

GAHC010212232023



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

Case No. : Bail Appln./3365/2023

ABU SAMA @ ABU SAMA ALI
S/O- MD. CHAND MIYA, RESIDENT OF VILLAGE- GHORAMARA, POLICE
STATION- CHHAYGAON, DISTRICT- KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR. T DEURI

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY
ORDER

22.09.2023

This is an application made under Section 439 Cr. P.C. seeking bail by the accused/petitioner, namely, **Abu Sama @ Abu Sama Ali**, who was arrested on 24.01.2023 in connection with Sessions Case No. 123/2018 under Sections

368/302 of IPC pending in the learned Court of Sessions Judge, Kamrup at Amingaon.

Heard Mr. T. Deuri, the learned counsel for the petitioner. Also heard Ms. S. H. Borah, learned Additional Public Prosecutor for the State of Assam.

The petitioner was arrested on 24.01.2023 and he is behind bar for last 240 days.

The learned counsel for the petitioner submits that the accused petitioner would not able to appear before the learned trial Court due to pandemic Covid-19 as well as the earlier engaged counsel had also not given any kind of status about the pending of the case so the accused/petitioner was defaulted in appearance before the learned Court below on the date fixed, and accordingly the learned Court below issued NBWA against the petitioner.

The learned counsel further submits that the petitioner gives an undertaking that he will appear before the court on each and every date.

Considered the aforesaid submissions made and also considered the materials available on record including the submission made in this petition.

Learned Additional Public prosecutor for the state has seriously opposed the application and prayed for its rejection.

Looking to the facts and circumstances of the case and on a perusal of the material available on record and period of detention, without commenting on the merits of the case, this Court is of the opinion that no further custodial detention is required. Accordingly, the present application is allowed.

It is directed that the petitioner, name above, be released on bail in

connection with the case aforementioned, on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned Special Judge, (POCSO), Kamrup, Amingaon with the following conditions.

- (a) Shall not leave the territorial jurisdiction of learned Special Judge, (POCSO), Kamrup, Amingaon, without prior written permission from him;
- (b) Shall not hamper with the investigation of the case and tamper with the evidence of the case;
- (c) Shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police office.

In terms of the above, this bail application stands disposed of.

JUDGE

Comparing Assistant