

GAHC010213182023



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

Case No. : Bail Appln./3354/2023

HASANUR ISLAM
S/O FAJIOR RAHMAN,
R/O BARBALUPARA, P.S.- MATIA, DIST.- GOALPARA, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.11.2023

Heard Mr. F. Haque, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State of Assam.

This application under section 439 of the Code of Criminal Procedure 1973, has been filed by the petitioner, namely, Hasanur Islam, who has been detained behind the bar since 12.06.2023 (since last 160 days), in connection

with Sessions Case No. 260/2023 under section 120B/201/366/302/34 of the IPC which is pending in the District and Sessions Judge, Goalpara.

Learned counsel for the petitioner submits that on the basis of an FIR lodged by one Lankeswar Nath 12.06.2023 before the Officer-in-charge of Matia Police Station, *inter-alia*, alleging that the sister of the first informant, namely, Junali Nath who went out for shopping to Matia on 11.06.2023 went missing and later on, on the same day at about 10.00 pm, her dead body was found near Krishnal Goalpara Road and investigation was initiated and after completion of the investigation, charge-sheet was laid against the present petitioner under Section 366/302/120B/201/34 of the IPC.

It is submitted by learned counsel for the petitioner that the petitioner has been detained behind the bar since 12.06.2023 and on last 5 occasion, she has been produced before the learned trial Court when the case was fixed for consideration of the charges, however, charges are yet to be framed.

It is further submitted by learned counsel for the petitioner that there are 70 listed witnesses in this case and there is a likelihood that the culmination of trial would take a long time. It is further submitted by learned counsel for the petitioner that the petitioner is a permanent resident of Barbalupara under Matia Police Station and he is ready to co-operate in his trial.

On the other hand, learned Additional Public Prosecutor has opposed to grant of bail to the present petitioner on the ground that the offence involved in this case is of heinous nature.

I have gone through the materials which are placed before me including the scanned copy of the case record of Sessions Case No. 260/2023.

It appears from the record that in the postmortem examination report, which is available on record, the cause of death could not ascertained and

earlier it was kept pending for receipt of the chemical examination report from Forensic Laboratory and it is also found that in the Forensic Laboratory Report, no poison has been found in the viscera of the deceased person.

There is nothing on record to suggest that the petitioner would not face the trial or that he would evade the course of justice or that he would threaten any of the witnesses if he is released on bail, therefore, this court does not find any justification to continue to allow the petitioner to be detained behind the bar during the pendency of the trial which would otherwise take long time for culmination, considering the fact that there are 70 numbers of the witnesses listed in the charge-sheet.

In view of the above, the petitioner, namely, Hasanur Islam is hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount subject to the satisfaction of the learned Sessions Judge, Goalpara with the following conditions:

- i. That the petitioner shall co-operate in the trial and shall appear before the trial court as and when so required by the learned trial court.
- ii. That the petitioner shall not leave the jurisdiction of the learned trial court without prior permission from the learned trial court during the pendency of the trial court.
- iii. That the petitioner 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 such person from disclosing such facts of the case to the trial court.

The learned Sessions Judge, Goalpara may impose any additional condition for bail if he deems it fit to do so

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

Send back the case diary.

JUDGE

Comparing Assistant