

GAHC010221012023



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

**Case No. : Bail Appln./3475/2023**

MAHIBUL HOQUE @ MOHIBUL ALI  
S/O JAHER ALI  
R/O VILL- KAMALABARI,  
P.S. SARTHEBARI  
PIN-781307  
IN THE DISTRICT OF BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM, GUWAHATI

**Advocate for the Petitioner : MR S DAS**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**20.11.2023**

Heard Mr. S.A. Hussain, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor, appearing for the State of Assam as well as Mr. H.A. Ahmed, learned counsel for the informant.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Mahibul Hoque @ Mohibul Ali, who has been detained behind the bars since 02.03.2023 (since last 263 days) in connection with Sessions P.S. Case No. 98/2023, arising out of Sarthebari P.S. Case No. 47/2023 under Section 302 of the Indian Penal Code.

Learned counsel for the petitioner has submitted that on the basis of an FIR lodged by one Jahirul Islam on 02.03.2023, the present petitioner was arrested since 02.03.2023 and after completion of the investigation which had started on the basis of the aforesaid FIR, the charge-sheet was laid against the present petitioner and another co-accused namely, Salma Jahan Ahmed.

It is further submitted that out of 18(eighteen) numbers of listed witnesses in the charge-sheet 10(ten) are already examined and most of the witnesses who remained to be examined are official witnesses only.

It is further submitted by learned counsel for the petitioner submitted that the petitioner is a permanent resident of village Kamalabari under Sarthebari Police Station and he is ready to face and co-operate in his trial.

On the other hand, Mr. H.A. Ahmed, learned counsel for the informant has opposed the grant of bail of the present petitioner on the ground that there are serious incriminating materials against the present petitioner and the present petitioner in connivance with the wife of the informant killed the mother of the informant.

Learned counsel for the informant has also submitted that the petitioner, after filing this instant bail application before this Court, has also moved a bail application before the Court of learned Sessions Judge, Barpeta where in the fact of filing this instant petition was suppressed. On the other hand, learned counsel for the petitioner has submitted that the petition for bail filed before

learned Sessions Judge, Barpeta was not filed with any authority from the present petitioner as it was filed without any Vakalatnama and in this regard, the petitioner has also filed an additional affidavit before this Court.

I have considered the submissions made by learned counsel for both the sides. It appears that out of the 18(eighteen) listed witnesses 10(ten) listed witnesses for the prosecution side have already been examined and considering the long period of detention, that is, 263 days as well as considering the fact that the petitioner is ready to co-operate in the trial, and also considering the fact that apart from the submissions that there are incriminating materials against the present petitioner, learned counsel for the informant has not made any other apprehension, like possibility of tampering of evidence by the present petitioner or fleeing away from the course of justice by the present petitioner.

Under such circumstances, this Court finds no justification for keeping the present petitioner behind the bars during the remaining course of trial.

In view of the above, the above-named petitioner, is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Sessions Judge, Barpeta, who may impose any other condition at the time of releasing the accused petitioner on bail, if he deems it fit to do so.

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

**JUDGE**

**Comparing Assistant**