

GAHC010221772023



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

Case No. : Bail Appln./3493/2023

JAKIR HUSSAIN
S/O ABDUL RASHID R/O CHITALMARI PATHAR P.S. JURIA DIST. NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 29.09.2023

Heard Mr. S. Nawaz, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of the Criminal

Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been arrested in connection with Juria P.S. Case No. 239/2023, under Sections 447/326/354/ 307/34 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner, Mr. Nawaz, that it is the admitted fact that there was a scuffle between the parties and in that process, the present petitioner also sustained grievous injury on his hand and head and to substantiate the same, he also produced the injury report of the accused petitioner. The learned counsel further submitted that it is an admitted fact that one finger of the father-in-law of the petitioner has been severed and the victim also sustained injuries during the scuffle. However, he submitted that the father-in-law of the petitioner is the aggressor and that fact will come out during the time of further investigation. Apart from that, he submitted that the petitioner is a cancer patient and he is still undergoing treatment and taking chemo on regular basis. In support of his plea, he also submitted good numbers of documents, wherefrom it is seen that the accused/petitioner is a cancer patient. The learned counsel for the petitioner further submitted that the accused is behind the bar since the date of his arrest, i.e. 27.08.2023, and he is in custody for last 33 days and hence, further custodial interrogation may not be necessary for the investigation of this case.

In this context, the learned Additional Public Prosecutor, Ms. S. Jahan, has submitted that the case is of serious in nature and as per allegation, the father-in-law of the present petitioner also sustained injury and hence, the medical report and the Case Diary will be necessary to find out the other facts of this

case. However, she also admitted that from the photograph, submitted along with the present petition, it cannot be denied that the petitioner also sustained severe injury on his hand and head.

Considering the submissions of learned counsels for both sides and also considering the medical ground of the petitioner viz-a-viz the period of detention already undergone by the accused/petitioner, I am of the view that further custodial interrogation of the accused/petitioner seems to be not necessary for the purpose of investigation.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Nagaon, the accused/petitioner, namely, Jakir Hussain, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) 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 him from disclosing such facts to the Court or to any police officer; and

- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Nagaon, without prior permission.

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

JUDGE

Comparing Assistant