

GAHC010224502023



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

Case No. : Bail Appln./3560/2023

OMER @ OMAR ALI
S/O KASARUDDIN
R/O VILL- BOROGAON, P.S. BAGRIBARI
DIST. KOKRAJHAR, ASSAM
PIN-783349

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 06.11.2023

Heard Mr. P. K. Das, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, 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, Omer @ Omar Ali, who has been

detained behind the bar since 05.09.2023, (since last 42 days) in connection with Sessions Case No. 53/2013 corresponding to Bagribari P. S. Case No. 97/2011 registered under Section 302 of Indian Penal Code.

Learned counsel for the petitioner has submitted that earlier the petitioner was regularly appearing before the Trial Court. As he is a labour in a brick factory and he went to work in brick factory at Golaghat District. He defaulted in appearance before the learned Trial Court.

It is submitted that on 05.09.2023, the petitioner had filed a bail petition before the learned Trial Court showing cause of his default in appearing during the trial. However, the said bail petition was rejected as the grounds cited there was not found to be sufficient by the learned Trial Court.

On the other hand, learned Additional Public Prosecutor submitted that the conduct of the petitioner during the trial is not encouraging as he has defaulted on more than one occasions and in spite of him being allowed to go on bail on earlier occasion by the learned Trial Court, he failed to appear on fixed dates.

I have considered the submissions made by the learned counsel for the both the parties and perused the materials on the case record, including the scanned copy of the case record of with Sessions Case No. 53/2013, which was called for in connection with this case.

It appears from the scanned copy of the case record that the petitioners has, on more than one occasion, has defaulted in appearing before the learned Trial Court and his conduct during the trial was not very encouraging.

However, it also appears that he has now been detained behind the bar for the last 62 days and already 08 out of 11 prosecution witnesses have been examined.

Considering the progress made in the trial as well as considering the period of detention already undergone by the present petitioner and also considering the submissions made by learned counsel for the petitioner, that the petitioner shall abide by any condition and shall appear regularly before the learned Trial Court, further custodial detention of the petitioner does not appear to be necessary for completion of the trial, if he co-operates in his trial.

In view of above, the petitioner, namely, Omer @ Omar Ali is allowed to go on bail of Rs. 50,000/- with one surety of like amount to the satisfaction of learned Sessions Judge, Kokrajhar subject to the following condition that:

- i. That the petitioner shall appear before the trial court as and when so required by the Trial Court and shall co-operate in his trial.

This bail application is accordingly disposed of.

Send back the case diary.

JUDGE

Comparing Assistant