

GAHC010226742022



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

Case No. : Bail Appln./2962/2022

NASER ALI @ NASER UDDIN
S/O FULBAR ALI
VILL- SANTOSH PUR PART-I, P.S. MERERCHAR, DIST. BONGAIGAON,
ASSAM

VERSUS

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

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 05-01-2023

Heard Ms. R. Choudhury, learned counsel for the accused-petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure,

1973, the accused-petitioner viz. Naser Ali @ Naser Uddin has prayed for his release on bail in connection with Abhayapuri Police Station Case no. 453/2022, registered for offences under Sections 302/34, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and produced before the Court of learned Sub-Divisional Judicial Magistrate [M], North Salmara, Abhayapuri on 13.10.2022. On being so produced, the accused-petitioner was remanded to custody.

4. One Kasiron Nessa lodged the First Information Report [FIR] before the Officer In-charge, Abhayapuri Police Station orally on 13.10.2022 alleging *inter alia* that her daughter named Alema Khatun was killed by the husband i.e. the accused-petitioner and other family members of the husband on 11.10.2022. According to the informant, she received the news on 12.10.2022 to the effect that her daughter had expired in the house of her son-in-law i.e. the accused-petitioner. The informant also suspected involvement of three other accused persons, that is [i] Nasmina Khatun i.e. the mother of the accused-petitioner; [ii] Ziarul Hoque i.e. the brother of the accused-petitioner; and [iii] Taizuddin i.e. the brother-in-law of the accused-petitioner. When she went to the house of her son-in-law i.e. the accused-petitioner, she suspected that after murdering her daughter, the accused-petitioner along with the other accused had kept her hanging. The witnesses whose statements are recorded under Section 161, CrPC have suspected the accused-petitioner to be behind the death of the deceased. The post-mortem examination on the deceased was carried out on 12.10.2022 but the final opinion regarding the cause of death is kept pending till receipt of the Chemical Analysis Report [Viscera Report] from the Forensic Science Laboratory [FLS], Assam.

5. The instant application was moved on 10.11.2022. On that date, the

learned Additional Public Prosecutor was asked to produce the case diary on 15.11.2022. Thereafter, the application was posted on 15.11.2022, 25.11.2022, 09.12.2022 & 19.12.2022 for production of the Chemical Analysis Report [Viscera Report].

6. The learned Additional Public Prosecutor has submitted today that the Chemical Analysis Report [Viscera Report] is yet to be received from the FSL, Assam. Other than the Chemical Analysis Report [Viscera Report], the investigation into the case of death of the deceased has progressed substantially as the statements of all the vital witnesses appeared to have been recorded.

7. In the aforesaid fact situation obtaining in the case and considering the fact the accused-petitioner is in custody for 85 days since 13.10.2022, this Court is of the considered view that custodial detention of the accused-petitioner for any further period for the purpose of carrying out further investigation appears not necessary and if the accused-petitioner is released on bail, at this stage of investigation, further investigation of the case is not likely to be prejudicially affected, provided the accused-petitioner continues to extend his assistance and cooperation in the further investigation of the case.

8 . Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 50,000/- with one surety of the like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate [M], North Salmara, Abhayapuri, subject to the following conditions :-

[1] The accused-petitioner shall cooperate with the investigation and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;

[2] The accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness 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

[3] The accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

This application stands disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant