

GAHC010234312023



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

Case No. : Bail Appln./3766/2023

SUMAR ALI @ GONESH
S/O KABEL ALI
VILL- JOMDUWAR
P.S. CHAPAR
PIN-787031
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 08.11.2023

Heard Mr. M. A. Sheikh, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioner, namely, Sumar Ali @ Gonesh, who has been arrested on 10.10.2023 (since last 90 days) in connection with Bilasipara P. S. Case No. 265/2022(corresponding to PRC Case No. 861/2023) under Sections 447/427/325/326/34 read with Section 302 of the Indian Penal Code.

The gist of accusation in this case is that on 22.08.2022 one Shahalom Hoque lodged an FIR before the Officer-in-Charge, Bilasipara Police Station, *inter-alia*, alleging that one Shahjahan Ali and eleven other accused persons named in the FIR armed with deadly weapon assaulted the elder brother of the first informant, namely, Sopiluddin Sheikh and accused serious injuries on his person. The FIR was initially registered under Sections 447/427/325/326/34 of the Indian Penal Code and later on, the injured Sopiluddin Sheikh scrummed to his injuries and Section 302 was added to the FIR and investigation proceeded. On completion of the investigation charge-sheet was laid against 19 accused persons.

Learned counsel for the petitioner submits that the present petitioner was neither named in the FIR nor charge-sheet was laid against him at the first instant. It is later on and after further investigation an additional charge-sheet was laid on 10.08.2023, wherein it is stated that during the course of further investigation, it was found that the present petitioner namely, Sumar Ali @ Gonesh was also involved in the offence involved in this case.

Learned counsel for the petitioner submits that out of 19 other accused persons against whom the charge-sheet was laid all the accused persons are on bail. They were granted bail by this Court and one of them was granted

anticipatory bail.

Learned counsel for the petitioner has further submitted that the Committal Court of learned SDJM (M) Bilasipara has issued summons to other 19 accused persons but they have not yet appeared before the learned Committal Court.

On the other hand, the present petitioner has been languishing behind the bar since last 90 days.

Considering the fact that the all the other co-accused of this case have already been granted bail this Court does not find any justification to keep the present petitioner behind the bar, if he otherwise co-operates in the investigation.

In view of the above, the present petitioner, namely, Sumar Ali @ Gonesh, is allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount to the satisfaction of the learned SDJM (M) Bilasipara with a condition that:

- i. That petitioner shall regularly appear before the learned Committal Court as well as learned Trial Court and after committal of the said case and shall co-operate in his trial.

This bail application is accordingly disposed of.

JUDGE

Comparing Assistant