

GAHC010235142023



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

Case No. : Bail Appln./3730/2023

CHUFAIL UDDIN
S/O ABDUL HACHEN
R/O VILL- NO. 2 DEJOO
PATHAR,
P.O. DEJOO,
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. P HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 17.11.2023

Heard Mr. P. Hazarika, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Md. Chufail Uddin* who has been

detained behind the bar since 20.04.2023 (since last 221 days) in connection with Sessions Case No. 114(NL)/2023 corresponding to North Lakhimpur P.S. Case No. 858/2021 under Sections 370 of the Indian Penal Code.

The learned counsel for the petitioner has submitted that based on an FIR lodged by one Rahima Begum on 26.07.2021, an investigation was initiated and after completion of investigation charge-sheet was laid against the present petitioner under Section 370 of the Indian Penal Code. It is submitted by learned counsel for the petitioner that during the course of investigation the present petitioner was arrested on 19.04.2023. It is also submitted by learned counsel for the petitioner that the charges were framed against the present petitioner under Section 370 of the Indian Penal Code on 06.07.2023 and the victim was examined as PW-1 on 20.07.2023. Thereafter, nine(9) dates for prosecution witnesses were fixed by the learned Trial Court, however, the prosecution side has failed to bring any further witnesses and the trial has not progressed beyond examination of the PW-1.

Learned counsel for the petitioner has also submitted that there are total eight prosecution witnesses listed in the charge-sheet and considering the current pace of the trial, the completion of the trial would take sufficient period of time and, therefore, the learned counsel for the petitioner has prayed for allowing the petitioner to go on bail. It is further submitted that the petitioner would cooperate in his trial, if he is allowed to go on bail.

On the other hand, learned Additional Public Prosecutor oppose the grant of bail to the present petitioner on the ground that the offence involved in this case is serious in nature and only one prosecution witnesses has been examined. It is further submitted that the son of the victim, who is a minor, has been summoned by the learned Trial Court as Court witnesses and he may have

to be examined and if the petitioner is released at this stage there is possibility of petitioner threatening the son of the PW-1.

I have considered the submissions made by learned counsel for both sides and have perused the scanned copy of the case record of Sessions Case No. 114(NL)/2023. It appears from the submissions made by learned counsel for the petitioner as well as on perusal of the records that the petitioner has been languishing behind the bar since last 221 days and only one witness has been examined. It also appears that the sole witness who has been examined happens to be the victim in this case. It further appears that the petitioner is a permanent resident of Village No. 2 Dejoo Pathar under North Lakhimpur Police Station and considering the fact that the trial has not progressed any further since last 9(nine) dates and considering the long period of detention of the present petitioner, this Court is of considered opinion that further custodial detention of the present petitioner may not be justified, if he, otherwise cooperates in the trial.

In view of the above, the petitioner is hereby allowed to go on bail of Rs.50,000/- (Rupees Fifty Thousand) with one surety of like amount to the satisfaction of the learned Additional Sessions Judge (FTC), Lakhimpur, subject to the conditions that:-

1. That the petitioner shall cooperate in his trial and shall appear before the Trial Court as and when so required by the learned Trial Court;
2. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any of the witnesses or any other persons who may be acquainted with the facts of the case so as to dissuade such persons from deposing against him in the pending trial;

3. Learned Trial Court may impose any additional condition, if it deems fit to do so before allowing the accused person to go on bail.

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

Send back the case diary.

JUDGE

Comparing Assistant