

GAHC010238802023



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

Case No. : Bail Appln./3897/2023

MIZANUR RAHMAN
S/O KOCHIM UDDIN
R/O VIL- BALARCHAR,
P.S. ABHAYAPURI
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. J AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 21.11.2023

Heard Mr. J. Ahmed, learned counsel for the petitioner. Also heard Ms. S. H. Bora, 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, Mizanur Rahman, who has been

detained behind the bar since 11.09.2023 (since last 71 days) in connection with Sessions Case No. 65/2023 under Sections 120B/376 of the IPC.

The learned counsel for the petitioner has submitted that the charge-sheet in PRC Case No. 105/2023 was laid on the basis of an investigation which was initiated after lodging of an FIR by one Manowar Hussain on 19.12.2021, wherein it has been alleged that about four months prior to lodging of the FIR, the present petitioner had forcefully raped the sister of the present petitioner with the help of his brother in law namely, Shajahan Ali.

Learned counsel for the petitioner submits that in the meanwhile the co-accused namely, Shajahan Ali has already been granted anticipatory bail by this Court.

It is further submitted by the learned counsel for the petitioner that the petitioner was shown as an absconder and thereafter, he received the summons from the committal court and after receiving the summons, the petitioner has appeared before the committal court and on appearance before the committal court, the petitioner was remanded to custody and since then he is in custody.

It is submitted by the learned counsel for the petitioner that the petitioner is ready to face the trial and would co-operate in the trial under any conditions which may be imposed by this Court or by the learned trial court.

On the other hand, learned Additional Public Prosecutor has vehemently opposed to grant of the bail to the present petitioner at this stage on the ground that the trial is in its nascent stage and charges is yet to be framed.

I have considered the submission made by the learned counsel for both sides and have perused the material available on record including the scanned copy of Sessions case No. 65/2023.

It appears that the charges have been laid against the present petitioner and one Shajahan Ali and the co-accused has already been released on bail. It also appears that the FIR in this case has been lodged after a delay of about four months, under such circumstances if the petitioner co-operates in his trial and abides by the conditions imposed on him, this Court does not find it necessary to keep the present petitioner under detention during the pendency of the trial, which is yet to be commenced.

In view of the above, the petitioner is hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) with one surety of like amount subject to the satisfaction of the learned Sessions Judge, Dhemaji subject to the following conditions:

- i. That the petitioner shall appear before the learned trial court as and when so required for the sake of fair completion of the investigation.
- ii. That the petitioner shall not directly or indirectly make any inducement, threat, or promise to the victim or to any listed witnesses or any other person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case in the trial pending against the present petitioner.
- iii. That the learned trial court may impose any additional condition it deems fit to do so.

With the above observation, this instant bail application is accordingly disposed of.

JUDGE

Comparing Assistant