

GAHC010247672022



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

Case No. : Bail Appln./3335/2022

AFJAL HUSSAIN
S/O AKLASUR RAHMAN
RO BRAHMANSHASON
P.S. NILAMBAZAR,
DIST. KARIMGANJ

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

08.02.2023

1. Heard Mr. A. Ahmed, learned counsel appearing for the petitioner as well as Mr. B.B. Gogoi, learned Addl. P.P. appearing for the State respondent.
2. This application under Section 439 Cr.P.C, is preferred by the petitioner, namely, Afjal Hussain, who is languishing in jail since 02.06.2022, in connection with Sessions Case

No. 100/2022 pending in the Court of Sessions Judge, Karimganj arising out of Nilambazar P.S. Case No. 77/2014, registered under Section 294(B)/447/325/379/34 and added Section 302 IPC.

3. I have considered the submissions at the Bar.

4. The FIR reveals that on 27.03.2014 at about 10.00 A.M., the accused no. 1 mentioned in the FIR assaulted the informant's child as a fight erupted between the informant's child and the accused no. 1's children at that time. When the informant went to the accused person's house, the accused no. 1 drove him out from his house after verbally abusing him. After some time, when the informant was in the market, the accused persons named in the FIR at the behest of the accused no. 1 entered into the informant's house and assaulted Lukman Uddin, Furkan Uddin, Hawarun Nessa, Rukia Begum causing grievous injuries on Lukman Ali who finally succumbed to his injuries. Charge-sheet was laid against the accused persons Aklasur Rahman, Basir Uddin, Joynab Begum and the petitioner was shown as absconder in the charge-sheet along with the Guljar Hussain.

5. It is submitted on behalf of the petitioner that he was busy helping his parents and his uncle, who were arrested in connection with this case and the police never searched for him during the time of investigation when, he was busy helping his parents. His parents and uncle were later, released on bail. As soon as the petitioner learnt about the pendency of this case against him, he voluntarily surrendered before the Court of Judicial Magistrate First Class and prayer for bail but he was forwarded to custody and thereafter, this case was committed to the Court of Sessions Judge. It is submitted that a false case has been slammed against him. On the day of the incident an altercation indeed took place between the petitioner father and the informant but there was no incident of any scuffle or fights between the parties. The petitioner has been named because he is a family member. The petitioner is willing to co-operate with the trial.

6. The learned Addl. P.P. has raised serious objections. The learned Addl. P.P. has drawn the attention of this Court to the order dated 24.08.2022 passed by the Additional Sessions Judge, Karimganj, that the petitioner bail prayer was rejected by the trial Court with observation that the trial was procrastinated by the petitioner as he was evading arrest and

if the petitioner is enlarged on bail, it is unlikely that the petitioner will appear regularly. It is submitted that the conduct of the petitioner does not entitle him to bail.

7. I have perused the scanned copies of the LCR.

8. Charges were framed against the petitioner and co-accused on 09.11.2022. Co-accused of the petitioners are already on the bail. I have considered the submission that the petitioner is willing to co-operate with the trial and not jump bail.

9. Considering all aspects, petition is allowed.

10. The petitioner is to be enlarged on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of learned trial Court,

under the conditions that,

(1) the petitioner will co-operate with the trial and not exercise threats to the witnesses,

(2) the petitioner will not jump the bail, and

(3) the petitioner will not leave jurisdiction without prior permission till the completion of the trial.

This petition stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant