

GAHC010251592023



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

Case No. : Bail Appln./4061/2023

SUBHRAJIT BORAH
S/O LATE SARANGA BORAH
R/O BYE LANE NO. 12, GANESH MANDIR PATH, NEW GUWAHATI, VIJAYA
JYOTI APARTMENT, FLAT NO. 03(C), P.S. NOONMATI, GUWAHATI-781020
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS H M PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 24.11.2023

Heard Mrs. H. M. Phukan, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, 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, *Sri Subhrajit Borah* who has been detained

behind the bar for last 47 days i.e., since 09.10.2023 in connection with Noonmati P.S. Case No. 297/2023 under Section 302 of the Indian Penal Code.

The accusation against the present petitioner is that on 08th October, 2023, one Sri Suresh Dorji had lodged an FIR before the Officer-in-Charge of Noonmati Police Station, *inter alia*, alleging that the son of the first informant, namely, Rohit Dorji was found in a unconscious state at Ganesh Mandir Path on 07th October, 2023 at about 6.30 PM and before the death of the son of the first informant he had gone to meet the present petitioner at his Vjayajyoti Rati Apartment, Ganesh Mandir bye lane and it is alleged in the FIR that the petitioner is suspected to have killed the son of the first informant.

Learned counsel for the petitioner has submitted that the allegations levelled against the present petitioner in the FIR is not true and he is innocent. It is further submitted by learned counsel for the petitioner that considering the period of detention of 47 days already undergone by the petitioner, he may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Noonmati P.S. Case No. 297/2023, which was called for in connection with this case and has submitted that the post-mortem examination has not been received and from the inquest report of the deceased which is available in the case diary, it appears that no injuries were found on the dead body of the deceased except some abrasion on the right foot of the deceased.

It is further submitted that the materials available in the case diary shows that the victim was found in unconscious state in the apartment of the present petitioner and he sought help of security guard to carry the present petitioner, however, at that time, he was already in unconscious state. It is also submitted that there is also materials to indicate both of them took drugs before the incident

and there is a probability that the deceased died due to overdose of the intake of drugs. Though, the investigation is pending at the stage of receipt of report of the post-mortem, however, considering the fact that the petitioner has already undergone detention for last 47 days and the Investigating Officer has recorded the statement of witnesses and the investigation has fairly progressed, further custodial detention of the present petitioner does not appear to be necessary for fair completion of the investigation of Noonmati P.S. Case No. 297/2023.

In view of the above, the above named 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 learned Chief Judicial Magistrate, Kamrup(M) with a condition that he shall continue to cooperate with the Investigating Officer in fair completion of the investigation.

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

Send back the case diary.

JUDGE

Comparing Assistant