

GAHC010253622022



THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)

Case No: **Bail Appln. 3446/2022**

Ananta Barman

S/O Sri Jiten Barman

R/O Vill- Ranikhati, P.S. Ranikhati, Dist. Chirang.

.....petitioner

VERSUS

The State of Assam

.....respondent

:: BEFORE ::

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHOUND

For the Petitioner : Ms. S.C. Biswas

For the Respondent : Mr. B. Sharma (Addl. P.P.,)

Date of Hearing : **30.01.2022**

Date of delivery of
Judgment and Order : **06.02.2023**

JUDGMENT

1. Heard Mr. S.C. Biswas, learned counsel appearing for the petitioner as well as Mr. B. Sarmah, learned Addl. P.P. appearing for the State respondent.
2. This application under Section 439 Cr.P.C, is preferred by the petitioner, namely, Ananta Barman, who is languishing in jail hajot since 22.06.2022, in connection with Basugaon P.S. Case No. 38/2022, registered under Section 450/376 IPC.
3. The informant 'X' lodged an FIR that the petitioner purchased a plot of land adjacent to her house and started constructing one RCC building. On 21.06.2022 while the informant 'X' was sleeping with her two children in the room, at about 2.00 A.M. she could hear someone trying to push open her door. Then, she noticed that the petitioner trespassed into the room and embraced her and pinned her to the bed in an attempt to commit sexual assault on her. The petitioner then, committed rape on her and fled away from her room by damaging the fence. When, she raised alarm, the neighbour assembled in her house. The FIR was registered and investigation commenced and the petitioner was taken into custody and since then he has been languishing in the jail.
4. It is submitted on behalf of the petitioner that the charge-sheet has been laid against him and trial is pending in the Court of learned Additional Sessions Judge, Chirang at Basugaon and Sessions Case No. 25/2022 has been registered. The petitioner preferred a bail petition before the learned Additional Sessions Judge on 22.11.2022, which was rejected on the ground that the victim raised serious objections on the ground of incriminating materials against the petitioner. It is submitted on behalf of the petitioner that he has to be at large to prepare his defence. He has been languishing in the jail since 22.11.2022 and his family including his minor children and old parents are suffering immensely. A false case has been slammed against him. His service in the police battalion is the only source of income and he is not a repeat offender. The petitioner is ready to co-operate with the trial and not jump bail.
5. The learned Addl. P.P. has raised serious objection stating that some more

witnesses are yet to be examined. The order of the learned Additional Sessions Judge dated 03.09.2022 reveals that since the date of his arrest, the petitioner and his family members have exercised threats on the victim to coerce them to withdraw this case against the petitioner. The petitioner is an influential person and he is a formidable person being a police personnel and it is plausible that he may use his official position and money power to gain over the witnesses.

6. I have given my anxious considerations to the submissions at the Bar. The case is progressing smoothly. Charges have been framed against the petitioner and this case is pending for evidence. I have perused the copies of the charge-sheet and the scanned copies of the LCR. Four witnesses have already been examined and the victim/informant has already been examined. The witness list on the charge-sheet consists of seven witnesses.

7. The learned counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in **Gopal Krishna Patra @ Gopalrusma Vs. Union of India** in Criminal Appeal No. 1169/2022 dated 05.08.2022. The appellant Gopal Krishna Patra was in custody since 18.06.2022 in connection with crime registered as N.C.B Crime No. 02/2020 in respect of offences punishable under Sections 8, 20, 27-AA, 28 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The Hon'ble Supreme Court after considering the length of custody undergone by the appellant has admitted him to bail.

8. On the anvil of the foregoing discussions it is held that in the instant case, the evidences of 4(four) witnesses has already been recorded. The trial is progressing at a good pace. At this stage, it cannot be contemplated that the trial will be procrastinated if the petitioner is enlarged on bail.

9. I would not like to bring the merits of the case, as the trial is progressing against the petitioner. The petitioner is a government employee and he does not appear to be a flight risk. The petitioner has pledged through the para-18/19 of the petition that he would not exercise threats to witnesses and he will co-operate with the trial and abide by any bail conditions imposed upon him.

10. The petitioner is the sole bread winner of his family and his elderly parents and minor children are totally dependent on him.

11. In view of my foregoing discussions, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/- (fifty thousand) with a suitable surety of like amount to the satisfaction of the trial Court. The trial Court may impose appropriate bail conditions to secure his attendance.

JUDGE

Comparing Assistant