

GAHC010253982022



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

Case No. : Bail Appln./3432/2022

KAKAOU DOLEY
S/O- SRI NILAKANTA DOLEY, R/O- MECHAKI TONGANI SILAPATHAR, P.S.
SILAPATHAR, DIST.- DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 06-01-2023

Heard Mr. K. Thakur, learned counsel for the accused-petitioner and Mr. B. Sharma, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973, the accused-petitioner viz. Kakaou Doley has prayed for his release on bail in connection with Silapathar Police Station Case no. 214/2022, registered for

offences under Sections 143/341/302, Indian Penal Code [IPC].

3. In the First Information Report [FIR] lodged on 24.11.2022, the informant has *inter alia* stated that at around 06-00 p.m. on 22.11.2022, his elder brother viz. Lakhindhar Doley was waylaid by the 5 [five] nos. of accused persons, named in the FIR, when Lakhindhar Doley was on his way to his residence by the village road of Tongani Gaon. According to the informant, all the accused persons physically assaulted Lakhindhar Doley on his head. As Lakhindhar Doley was found lying on the road, he was taken to and admitted at the Assam Medical College & Hospital [AMCH], Dibrugarh, where he breathed his last on 24.11.2022. The name of the accused-petitioner has figured as accused no. 2 [A-1] amongst the 5 [five] accused persons, named in the FIR.

4. Mr. Sharma, learned Additional Public Prosecutor who has received the case diary, has submitted that the Post-Mortem Examination [P.M.E.] on the dead body of the deceased was performed at the Assam Medical College & Hospital [AMCH] on 25.11.2022. As per the P.M.E. Report, the death of the deceased was due to coma as a result of head injury.

5. The statement of one eye-witness has been recorded under Section 161, CrPC. The said eye-witness has stated about the presence of all the five accused persons at the place of occurrence. As per the said eye-witness account, one Juwandra Doley, named as accused no. 1 [A-1] in the FIR, had inflicted the blow on the head of the deceased and the accused-petitioner, though a by-stander with him, did not inflict the blow. The statements of the other witnesses have also been recorded by the Investigating Officer of the case.

6. Considering the progress made in the investigation of the case and the period of detention of the accused-petitioner in custody since 25.11.2022, this

Court is of the considered view that custodial detention of the accused-petitioner for any further period for the purpose of carrying out further investigation appears not necessary and if the accused-petitioner is released on bail, at this stage of investigation, further investigation of the case is not likely to be prejudicially affected, provided the accused-petitioner continues to extend his assistance and cooperation in the further investigation of the case.

7. Accordingly, the accused-petitioner is allowed to be enlarged on bail on furnishing a bail bond of Rs. 50,000/- with two sureties of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Dhemaji, subject to the following conditions :-

[1] The accused-petitioner shall cooperate with the investigation and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;

[2] The accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer; and

[3] The accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

This application stands disposed of in the afore-mentioned terms.

JUDGE

Comparing Assistant