

GAHC010254002023



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

Case No. : Bail Appln./4120/2023

AMINUL ISLAM @ AMINUR ISLAM
S/O- GOLAP HUSSAIN, R/O- VILLAGE- KUCHNIMARA PUB, P.S.
MANKACHAR, DIST.- SOUTH SALMARA MANKACHAR, ASSAM, PIN-
783131

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR. RASHIDUL ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28.11.2023

Heard Mr. R. Islam, 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, *Aminul Islam @ Aminur Islam*, who has been detained behind the bar since 27.10.2023 in connection with Mankachar P.S. Case No. 16/2021.

The accusation against the present petitioner is that on 05.01.2021, one

Koriful Bibi, had lodged an FIR before the Officer-in-Charge of Mankachar Police Station, *inter alia*, alleging that the accused persons named in the FIR (six nos. of accused persons are named in the FIR) including the present petitioner have assaulted the sons of the first informant with a knife and bamboo stick and had caused injury in their persons.

Learned counsel for the petitioner has submitted that the allegations levelled against the present petitioner in the FIR are not true and the same has been lodged due to existing boundary dispute between the family members of the first informant and the present petitioner since long back.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Mankachar P.S. Case No. 16/2021 which was called for in connection with this case and has submitted that from the injury report which is available in the case diary, it appears that the victim sustained grievous injury which is caused by a sharp weapon. However, from the statement of the witnesses recorded under Section 161 Code of Criminal Procedure, 1973, it cannot be ascertained who had caused injury on the victim.

It is further submitted that the statement of the victim under Section 161 of the Code of Criminal Procedure, 1973 is not available in the case diary. However, the statement of the present petitioner has already been recorded by the Investigating Officer.

On the other hand, learned Additional Public Prosecutor opposes the grant of bail to the present petitioner on the ground that some of the co-accused named in the FIR are yet to be arrested.

I have considered the submissions made by learned counsel for both sides and have gone through the materials available on record including the case

diary of Mankachar P.S. Case No. 16/2021.

It appears from the record that the incident alleged in the FIR had occurred two years ago i.e., in the year 2021 and the present petitioner was arrested only on 27.10.2023. It also appears that he has been detained behind the bar for last 32 days and his statement has already been recorded.

Considering the progress made in the investigation, his further custodial detention does not appear to be necessary, if he, otherwise, cooperates in the investigation.

In view of the above, the petitioner, namely, *Aminul Islam @ Aminur Islam* 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 Chief Judicial Magistrate, South Salmara, Mankachar, subject to the following conditions:-

1. That the petitioner shall appear before the Investigating Officer of Mankachar P.S. Case No. 16/2021 every week for next three weeks or till the investigation is completed, whichever is earlier;
2. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

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

Send back the case diary.

JUDGE

Comparing Assistant