

GAHC010254762023



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

Case No. : Bail Appln./4146/2023

LUCKY BARMAN
S/O MOHAN BARMAN,
R/O SONKUCHI, LALMATI, P.S. BASISTHA
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B HALDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

30.11.2023

Heard Mr. B. Haldar, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Lucky Barman, who has been

detained behind the bars since 27.10.2023 (for last 35 days) in connection with Basistha P.S. Case No. 657/2023 under Section 394/294(a)/427 of the Indian Penal Code.

The gist of accusation in this case against the present petitioner is that on 27.10.2023, one Raju Yadav had lodged an FIR before the Officer-In-Charge of Basistha Police Station, *inter-alia*, alleging that on 27.10.2023 at about 10:30 AM when the first informant was going to ATC Petrol Pump, near Basistha National Highway Road three boys in an inebriated condition stopped the bike of the first informant and assaulted him and snatched away Rs. 10,000/- from the first informant.

Learned counsel for the petitioner submits that the allegation levelled against the petitioner in the FIR is not true.

It is submitted that in fact, the informant had committed an accident by knocking the wife of the present petitioner on the same date due to which an altercation issued between them. However, there was no injury caused by any of the parties and it is submitted that the allegation of snatching of Rs. 10,000/- from the informant has been falsely made by the informant in his FIR.

Learned counsel for the petitioner has also submitted that otherwise also the petitioner has already undergone 35 days behind the bars and considering the period of detention, he may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Basistha P.S. Case No. 657/2023 and has submitted that the Investigating Officer has recorded the statement of relevant witnesses and from the statement of witnesses it appears that there was an altercation where both parties assaulted each other, however, no serious injuries were sustained by any of them.

It is also submitted by the learned Additional Public Prosecutor that apart from the statement of the first informant at this stage, though the first informant has implicated the present petitioner for snatching away money from him, however, the present petitioner has denied the same in his statement made under Section 161 of the Code of Criminal Procedure, 1973.

Learned Additional Public Prosecutor has also submitted that in the meanwhile, all of the three accused persons involved in this case have been arrested.

Considering the progress made in the investigation as well as considering the period of detention already undergone by the present petitioner, his further custodial detention does not appear to be necessary for the sake of fair completion of investigation of Basistha P.S. Case No. 657/2023.

In view of the above, the above-named petitioner is hereby allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) with conditions that:-

(i) that the petitioner shall appear before the Investigating Officer as and when so required for the sake of fair completion of the investigation; and

(ii) the petitioner shall not directly or indirectly make any inducement threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

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

Send back the case diary.

JUDGE

Comparing Assistant