

GAHC010255702023



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

Case No. : Bail Appln./4139/2023

MOHAR ALI
S/O- JAHER ALI, R/O- LATIBARI PT-I, P.S. ABHAYAPURI, DIST.-
BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28.11.2023

Heard Mr. M. Ali, 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, *Mohar Ali*, who has been detained behind the bar since 12.10.2023 in connection with Abhayapuri P.S. Case No. 468/2023 under Sections 326/354(B)/34 of the Indian Penal Code.

The accusation against the present petitioner is that on 12.10.2023, one Smt. Anjali Mandal, had lodged an FIR before the Officer-in-Charge of Abhayapuri Police Station, *inter alia*, alleging that the accused persons named in the FIR (three nos. of accused persons are named in the FIR) including the present petitioner on 12.10.2023, at 6.45 AM in the morning started quarrelling with the first informant regarding boundary of the land and assaulted the family members of the first informant causing serious injuries on their persons. It is also alleged in the FIR that the first informant, namely, Anjali Mandal and Radhakanta Mandal had to take treatment in the hospital for the injury sustained by them.

Learned counsel for the petitioner has submitted that the allegation levelled against the present petitioner in the FIR are not true and there was an altercation between the first informant and the petitioner's family over a boundary dispute between them, however, nothing as alleged in the FIR had occurred on the fateful day.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Abhayapuri P.S. Case No. 468/2023 and has submitted that the injury report of the first informant Anjali Mandal is available in the case diary and from the said injury report, she sustained only abrasion and no serious injury were caused to her. It is further submitted that the injury report of Radhakanta Mandal is not available in the case diary. However, it is submitted by learned Additional Public Prosecutor that in the meanwhile, the investigating Officer has recorded the statement of relevant witnesses including the accused persons and the investigation has fairly progressed.

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

which was called for in connection with this case.

Considering the fact that the investigation of this case has fairly progressed and also considering the fact that the petitioner has already been detained behind the bar for last 47 days, this Court is of considered opinion that further custodial detention of the present petitioner may not be necessary for fair completion of the investigation of the case. Hence, the 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 SDJM(M), Abhayapuri, subject to the following conditions:-

1. That the petitioner shall cooperate in the investigation and shall appear before the Investigating Officer;
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