

GAHC010256762022



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

Case No. : Bail Appln./3458/2022

BIVEKANANDA TAID
S/O- UMEDHAR TAID,
R/O- HOUSE NO-21,
DEHAL PATH, NALAPARA,
P.S- BASISTHA , GUWAHATI-29,
DIST- KAMRUP (M), ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR A TEWARI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

10.01.2023.

Heard Mr. A. Tewari, learned counsel for the accused. Also heard Mr. BB Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is

preferred by accused, namely, Bivekananda Taid, who is languishing in jail hazot for last 33 days, since 08.12.2022, in connection with the Basistha P.S. Case No.1042/2022, under Sections 25(IA)/27(1) of the Arms Act, read with Section 341/506 of the IPC, for granting bail.

The above mentioned case has been registered on the basis of an F.I.R., lodged by one Smti Reena Lahkar Sarma, on 08.12.2022, to the effect that on that day at about 12:00 P.M., while she meet one Taid and asked him to repair the road which was got damaged in front of his house, then Taid took out a gun and chased her and then she ran away and reported the matter to one Mamoni and then her husband asked the accused to show him and then, the accused threatened to shoot him within two days and then he fired bullet from the said gun, from the top of his building.

Mr. Tewari, learned counsel for the accused submits that the accused is behind the bar for last 33 days and that the gun has already been seized by police and no license is required for the same, as it is an Air-gun and he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. BB Gogoi, learned Addl. P.P., Assam has produced the case diary before this Court and submits that the gun seized from the possession of the accused is one Air-gun and it is not prohibited gun and no license is required to operate the same.

It is to be noted here that, though the FSL report was called for vide orders dated 14.12.2022 and 05.01.2023, but, the learned Addl. P.P., Assam has failed to produce the same.

Having heard the submissions of learned Advocates of both sides, I have

carefully gone through the petition and the documents placed on record.

Having regard to above, and also considering the nature and accusation and the punishment prescribed for the same and the period of detention, this Court is inclined to allow this petition and accordingly, it is provided that on furnishing a bond of Rs.25,000/- (Rupees twenty five thousands) only, with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) at Guwahati, the accused person, named above, be enlarged on bail, in connection with the Basistha P.S. Case No.1042/2022.

In terms of above, this bail application stands disposed of.

The case diary be returned.

JUDGE

Comparing Assistant