

GAHC010258342023



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

Case No. : Bail Appln./4175/2023

MOJAMIL HOQUE
S/O MAINUL HOQUE
R/O VILL- SALIKAJHAR
P.S. SIPAJHAR
DIST. DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28.11.2023

Heard Mr. A. K. Azad, 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, *Md. Mojamil Hoque*, who has been detained behind the bar since 17.10.2023 (for last 43 days) in connection with Baihata Chariali P.S. Case No. 325/2023 under Sections 498A/447/326/307 of the

Indian Penal Code.

The accusation against the present petitioner is that on 16.10.2023, one Amanisha Begum, who is the wife of the present petitioner had lodged an FIR before the Officer-in-Charge of Baihata Chariali Police Station, *inter alia*, alleging that after her marriage with the present petitioner she has been subjected to cruelty by the petitioner and unable to tolerate the inhumane torture of the present petitioner, the informant left her matrimonial home and is now staying with her parents. It is alleged in the FIR that on 15.10.2023 at about 10.30 PM, the petitioner came to the maternal home of the first informant armed with *dao* and assaulted the first informant causing injuries on her person.

Learned counsel for the petitioner has submitted that the dispute between the petitioner and the first informant is of matrimonial in nature. In fact, the informant has after birth of their child, who is now 2½ years of age, left the matrimonial home along with his child and on the date of alleged incident the petitioner went to see her child in the matrimonial home of the first informant, who prevented the petitioner from meeting his child and on this some altercation occurred, however, nothing as alleged in FIR has happened.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Baihata Chariali P.S. Case No. 325/2023 and has submitted that though from the injury report available in the case diary, it appears that the first informant sustained two injuries, one over her left hand and another over her left shoulder. However, the opinion regarding the nature of injuries sustained and the weapon used for causing injury has not been stated in the said report and, thus, from the materials on record it cannot be said as to whether the first informant sustained grievous injuries by sharp weapon or not.

Learned Additional Public Prosecutor has also submitted that, in the

meanwhile, the investigation has fairly progressed and statement of victim as well as other witnesses have been recorded by the Investigating Officer who have implicated the present petitioner in this case.

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

Considering the progress made in the investigation as well as considering the fact that the petitioner has already been detained behind the bar for last 43 days, his further custodial detention does not appear to be necessary for the sake of fair completion of the investigation of Baihata Chariali P.S. Case No. 325/2023.

In view of the above, the above named 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, Rangia, 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