

GAHC010262232022



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

Case No. : Bail Appln./3542/2022

LAKSHYA JYOTI BANGTHAI @ LAKHYAJYOTTI BANGTHAI
S/O JYOTI PRASAD BANGTHAI,
R/O GARMARI,
P.S.- MORIGAON,
DIST.- MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

18.01.2023

Heard Mr. B.K. Mahajan, learned counsel for the accused petitioner as well as Mr. K.K. Das, learned Addl. P.P., Assam appearing for the State respondent.

By this second petition under Section 439 Cr.P.C., the accused-petitioner,

namely **Lakshya Jyoti Bangthai @Lakhyajyotti Bangthai** has prayed for grant of bail in connection with **Morigaon P.S. Case No. 372/2022** u/s **302** of the IPC.

It may be mentioned that the earlier bail application of the accused petitioner being B.A. No. 2970/2022 was rejected by this Court vide order, dated 08.12.2022.

The case diary is placed before the Court.

The FIR reveals the allegation that on 26.10.2022 at around 7.30 p.m., the informant's father, namely Saidul Islam, went out of home for watching drama at Garhmari, but, did not return. On the next day, i.e., 27.10.2022, at about 6 a.m., he was found dead inside the boundary of Sankardev Sishu Niketan School, Garhmari.

It is noticed that the accused petitioner has been in judicial custody since 28.10.2022, i.e., for 82 days.

Mr. B.K. Mahajan, learned counsel for the accused petitioner, submits that the accused petitioner has been languishing in judicial custody since 28.10.2022 since he was arrested in connection with the case merely on suspicion. Mr. Mahajan also submits that on the day of occurrence, there was a drama programme at village Garmari on the occasion of 'Deepawali' wherein the accused petitioner was also present and he participated in a dice/gambling run by the deceased near the function premises. But, Mr. Mahajan submits, suddenly the police personnel arrived there and the organizer (since deceased)

tried to run away with all the money laid on the dice including the money of the accused petitioner, whereafter, the accused petitioner took hold of the mobile handset of the deceased and left the place and nothing more which may attribute to his guilt. Mr. Mahajan emphatically submits that the present accused petitioner is the victim of aforesaid circumstances for which he has been languishing in judicial custody for a long period for no fault of him.

Mr. K.K. Das, learned Addl. P.P., submits that the case diary reveals that the accused petitioner has been detained based on last seen together theory and there is other incriminating evidence against him.

The post-mortem report shows that the cause of death of the deceased was due to hypovolemic shock as a result of hemoperitoneum caused by ruptured spleen, ruptured right kidney and intracranial bleed which may be caused by multiple blunt trauma.

The evidence on the case diary including the statements recorded under Sections 164 Cr.P.C. reveals direct evidence that there was a scuffle between the accused petitioner and the deceased and there was public interference on 26.10.2022 evening after sunset. On the following day, that is, on 27.10.2022 morning at around 6 a.m., his dead body was found within the boundary of Sankardev Sishu Niketan School, Garhmari. The case diary further reveals that the deceased had stolen the accused petitioner's money and thereupon, when the accused petitioner demanded return of the stolen money, he declined to return the same and therefore, the accused petitioner assaulted him and snatched his mobile phone. These facts, as revealed in investigation till date,

are subject to final outcome in investigation, which is yet to be completed. Therefore, in the aforesaid backdrop of incriminating evidence so far collected by the investigating officer, this Court is of the opinion that at the present critical stage of investigation, if the liberty of bail is granted to the accused petitioner, the ongoing investigation may likely to be adversely affected.

Accordingly, the bail application of the accused petitioner stands rejected.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant