

GAHC010266232022



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

Case No. : Bail Appln./3651/2022

TIKENDRA CHUTIA AND ANR
S/O- SRI INDRESWAR CHUTIA, R/O- VILL- GUROTHALI, P.S- GOGAMUH,
P.O- BORDOLONI, DIST- DHEMAJI, ASSAM, PIN- 787026

2: SANJIB CHUTIA
S/O- SRI TIKENDRA CHUTIA
R/O- VILL- GUROTHALI
P.S- GOGAMUKH
P.O- BORDOLONI
DIST- DHEMAJI
ASSAM, PIN- 78702

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. U DUTTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.08.2023

Heard Mr. U. Dutta, learned counsel for the accused. Also heard Mr. R.J. Baruah,

learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by the accused, namely, Tikendra Chutia and Sanjib Chutia, who are languishing in jail hazot since 30.04.2023, in connection with Gogamukh P.S. Case No.51/2022 under Section 341/302/34 IPC.

3. It is to be noted here that Gogamukh P.S. Case No.51/2022, under Section 341/302/34 IPC, was registered on the basis of one F.I.R. lodged by one Bhai Chutia on 30.04.2023. The essence of allegation made in the FIR is that on 29.04.2023 at about 6.30 p.m. accused Tikendra Chutia and Sanjib Chutia wrongfully restrained one Dilip Chutia near Gurorthali Namghar and killed him by inflicting dao blow.

4. Mr. Dutta, learned counsel for the accused persons submits that after completion of investigation the I.O. has already laid charge-sheet against both the accused and the learned Court below has framed charge against both the accused persons under Section 302/34 IPC and examined as many as two witnesses. Further, Mr. Dutta submits that accused No.2 Sanjib Chutia is a student of B.Sc. in North Bank College, Ghilamara and earlier on two occasions he was granted ad-interim bail so as to enable him to appear in the examination and after appearing in the examination he has surrendered before the Court below and he has not misused the liberty and therefore, it is contended to allow this petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor has vehemently opposed the petition on the ground that the offences are serious in nature and that one of the eye witnesses, who was examined as PW-2 by the learned Court below, has implicated both the accused persons with the offence alleged and therefore, Mr. Baruah contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully

gone through the petition and the documents placed on record and also perused the scanned copy of the record received from the learned Court below.

7. It is not in dispute that the accused persons are charge-sheeted under Section 302/34 IPC and charges have been framed under the said section against both the accused and as many as two witnesses have been examined out of 18 witnesses cited in the charge-sheet. It is also not in dispute that both the accused are languishing in jail hazot for last 179 days and there is no immediate prospect of conclusion of trial as 16 witnesses are yet to be examined.

8. However, having regards to the nature and gravity of the offence and also the punishment prescribed for the same and also considering the fact that some of the eye witnesses are yet to be examined, this Court is of the view that enlarging the accused persons on bail at this stage will cause delay in completion of trial and the apprehension of intimidating the witnesses also cannot be ruled out at this stage and therefore, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused persons. Accordingly, the bail application stands dismissed.

9. However, the learned Court below is requested to make an endeavour to expedite the trial and conclude the same within a period of 6(six) months from today, and if necessary, by taking recourse to Section 309(1) Cr.P.C.

Sd/- Robin Phukan
JUDGE

Comparing Assistant