

GAHC010269252022



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

Case No. : Bail Appln./3661/2022

KALU ALI
S/O AKBAR ALI,
VILL.- BARPOTHAR, BASISTHA KALI MANDIR,
H/NO- 84,
P.S.- BASISTHA, KAMRUP (M), P/A- BANGALPARA, BONGAIGAON.

VERSUS

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

Advocate for the Petitioner : MR F KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

20.01.2023

Heard Ms. K. Sumi, learned counsel for the accused-petitioner; Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State of Assam; and Mr. M. Hoque, learned counsel for the informant.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Kalu Ali has prayed for his release on bail in connection with Hatigaon Police Station Case no. 548/2022, registered under Sections 325/313, Indian Penal Code [IPC].

3. The accused-petitioner was arrested and produced before the Court of learned Chief Judicial Magistrate, Kamrup [M], Guwahati on 06.12.2022 and on being so produced, he was remanded to custody. Thus, the accused-petitioner is in custody for 45 days since 06.12.2022.

4. As per the First Information Report [FIR], lodged by the informant on 02.12.2022, the informant was severely assaulted by the accused-petitioner i.e. her husband on 11.11.2022. In the course of such assault, the accused-petitioner made attempt to strangle her and gave kicks at her abdomen. At that point of time, the informant was carrying pregnancy. The informant was allegedly driven out of her matrimonial house. Subsequently on 12.11.2022, the informant had done ultrasound at a hospital and as per the report of ultrasound, there was miscarriage and she had to give birth to a stillborn baby.

5. The FIR indicates alleged assault on the informant on 11.11.2022 and the subsequent miscarriage was on 24.11.2022. The ultrasound report dated 24.11.2022 has reported that single intrauterine foetus with missed abortion at 13 weeks 6 days with grossly reduced liquor.

6. The statements of the witnesses, who have knowledge about the alleged incident, have already been recorded by the Investigating Officer [I.O.] of the case under Section 161, CrPC.

7. Having regard to the extent the investigation has progressed, as revealed from the materials in the case diary, and the period of detention of the accused-petitioner in custody for 45 days since 06.12.2022, this Court is of the considered view that further custodial detention of the accused-petitioner is not necessary for the purpose of carrying out further investigation of the case and his release on bail, at this stage of investigation, is unlikely to

cause any adverse effect in the further investigation of the case, provided he continues to extend his assistance and co-operation in the further investigation of the case.

8. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of Rs. 50,000/- with one local surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M], Guwahati subject to the conditions that :-

[i] the accused-petitioner shall co-operate with the investigation and make himself available for interrogation whenever required by the Investigating Officer [I.O.] of the case;

[ii] the accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioner/petitioners shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and

[v] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

9. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant