

GAHC010274772023



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

Case No. : Bail Appln./4428/2023

ABDUL MONNAF MANDAL @ MONNAF JODDAR
S/O OSMAN GANI MANDAL
VILL- BHALUKDUBI JUNGLE BLOCK-2,
P.S. GOALPARA
DIST GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

07.12.2023

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. M. Hoque, learned counsel for the accused and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by accused, namely, Abdul Monnaf Mandal @ Monnaf Joddar, who has been languishing in jail hazot since 24.11.2023, in connection with Goalpara P.S. Case No.189/2023, under Section 294/325/354(B)/379/34 IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Shajiran Khatun on 24.11.2023. The essence of allegation made in the aforesaid FIR is that on 24.11.2023, at about 9:00 a.m., one Monnaf Joddar came to the house of the informant and took her to his house and closed the gate and abused her by using bad language and beaten her with iron rod and caused serious injuries on various parts of her body and he also torn her clothes and outraged her modesty and while she raised hue and cry, then neighbours arrived at there and then the accused No.1 Monnaf Joddar fled away, forcefully taking a sum of ₹ 15,000/- from her.

4. Mr. Choudhury, learned Senior counsel for the accused, submits that the FIR lodged by the informant is the counterblast of the FIR dated 23.11.2023, lodged by one Kantilla Sangma of village Bhalukdubi, wherein allegation has been made against the husband of the informant in respect of stealing of pet goat, in front of her house and then on enquiry, he found that the accused engaged in selling of the goat on 23.11.2023 at about 1:00 p.m. in front of St. Thomas School and he was caught red handed by the local people and as the present accused also belongs to the party of the said informant and the wife of the accused lodged the present case falsely implicating the present accused. Mr. Choudhury further submits that the informant of the present case and her husband Rahmat Ali are habitual offenders and they involved in stealing goat and cow from that locality and as many as 50 cases have been registered against them and that the accused is behind the bar for last 14 days and in the interest of investigation, his custodial interrogation may not be necessary and therefore, Mr. Choudhury contended that the accused may be enlarged on bail.

5. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor submits that there is specific allegation against the present accused and therefore, Mr. Borthakur

has opposed the petition.

6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record.

7. It appears that before lodging the FIR dated 24.11.2023, another FIR dated 23.11.2023 was lodged against the husband of the informant for stealing of pet goat of one Kantilla Sangma, wherein the husband of the present informant was arrested and forwarded to jail hazot. It also appears that the accused of the said FIR, namely, Rahmat Ali @ Hekra, who was arrested on 23.11.2023, is the husband of the informant of the present case. Further, it appears that the accused was arrested on 24.11.2023, and since then for last 14 days the accused is languishing in jail hazot.

8. In the given facts and circumstances on the record and also in view of the period of detention in jail hazot, further custodial detention of the accused seems to be not warranted here in this case in the interest of investigation and therefore, this Court is inclined to allow this petition.

9. It is provided that on furnishing a bond of ₹ 50,000/- (Rupees Fifty Thousand) with one surety of like amount, to the satisfaction of the learned Chief Judicial Magistrate, Goalpara, the accused be enlarged on bail.

10. In terms of above, this petition stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant