

GAHC040015792024



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

Case No. : BA/121/2024

Miss Assaya Umbrey
Daughter of Late Arun Umbrey, permanent resident of Village Mayu-II, PO and PS
Roing, Lower Dibang Valley District, Arunachal Pradesh.

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Dicky Panging, Tokge Darin, Kirmar Ado, Doge Lona, Marge D, Daina Tamuk

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 05-12-2024

Heard Mr. D. Panging, learned counsel for the petitioner. Also heard Mr. T. Ete, learned Additional Public Prosecutor appearing for the State respondent.

2. The present bail application has been so instituted by the applicant praying for grant of privilege of bail to the accused, namely,

Shri Dehum Umbrey in connection with Sessions Case No.18(LDV)/2024 arising from Roing P.S. Case No.14/2024.

3. One Mrs. Millo Yapii Nani had lodged an FIR on 11.05.2024 before the Officer-in-Charge Roing Police Station, *inter alia*, alleging therein that the alleged accused along with some unknown persons had forcefully kidnapped her son, Shri Millo Ricky, an employee of India Post from his official quarter at Koruna, Lower Dibang Valley. It was further alleged that after kidnapping her son, the accused had kept him confined and brought him back to the Roing police station after brutally assaulting him with unknown objects and also attempting on his life. It was contended that her son having sustained brain injury is at stage of coma and fighting for his life at Dibrugarh Hospital. On receipt of the said FIR, the Roing P.S. Case No. 14/2024 came to be so registered under Section 342/325/365/307/34 IPC. It is to be noted that the son of the informant, who was hospitalised succumbed to his injuries on 12.05.2024. Accordingly, Section 302 IPC was added to Roing P.S Case No.14/2024.

4. The events leading to the death of Millo Ricky, son of the informant in Roing P.S. Case No. 14/2024, would be required to be noticed, which is so noticed from the charge sheet filed in the matter;

As revealed from the charge sheet, one Miss Tadar Sumpi, who was employed as an Assistant Branch Post Master at Koruna of India Post, was attacked by her colleague Millo Ricky, who at that point of time was working as Branch Post Master at the same Post Office. It is

to be noted that in terms of the allegation levelled by Miss Tadar Sumpi, Millo Ricky had in addition to assaulting her also dragged her by her hair to his room. It is further alleged that he had taken a plier and a screwdriver to attack her and had pinned her down on the floor. It was also alleged that Millo Ricky had choked Tadar Sumpi, while he was trying to sexually assault her. It was also contended that she somehow managed to escape from him and ran towards a nearby wine shop, where she asked the shopkeeper for help. Thereafter, she had called her father and told him what had happened to her. Thereafter, her brother called at the shop keepers phone and told her that his friend i.e. the present accused was coming to pick her up and not to worry.

It is seen that the present accused, along with two others arrived at the place wherein the Miss Tadar Sumpi was waiting and thereafter, they all proceeded towards the quarter of Millo Ricky and asked him to sit in the vehicle which was brought by the accused, herein. It is stated that Millo Ricky had sat in the vehicle and they had gone to the house of the present accused. Thereafter, Tadar Sumpi was send for treatment of the injuries suffered by her and Millo Ricky having told that he was hungry, it is seen that he was taken to a restaurant by the accused, herein, and had brought food for him to eat. Thereafter, the alleged accused, Miss Tadar Sumpi and Millo Ricky had proceeded to the chamber of one advocate to draft an FIR against the Millo Ricky, for the assault he had committed upon the said Tadar Sumpi.

It was during the interaction with the advocate that the Tadar Sumpi had disclosed what had exactly happened to her and also the manner in which she was assaulted by said Millo Ricky. On coming out from the chamber of the said advocate, the alleged accused was heard saying "How could you do that to a girl" and thereafter, assaulted the said Millo Ricky. From the advocate's chamber, it is seen that the alleged accused herein, along with his associates and Miss Tadar Sumpi had proceeded to Roing Police Station along with Millo Ricky and had handed over said Millo Ricky to the police. Thereafter, the FIR being found to have been not properly drafted, the police had required said Tadar Sumpi and the accused herein to submit a proper FIR in the matter and accordingly, leaving said Millo Ricky at the police station, the alleged accused and Miss Tadar Sumpi proceeded for getting the FIR drafted by an advocate.

At this relevant point of time, the health condition of Millo Ricky deteriorated and accordingly, the police admitted him to the hospital. It is seen that thereafter, Tadar Sumpi and the alleged accused had gone to the police station and Tadar Sumpi had submitted her FIR on 10.05.2024 and accordingly, on receipt of the same, the police had registered Roing P.S. Case No.13/2024 under Section 41/326/307/354 IPC against the said Millo Ricky. The mother of said Millo Ricky had also lodged an FIR alleging that her son was kidnapped, kept confined and thereafter, handed over to the police after brutally assaulting him. Basing the said FIR so lodged by the mother of Millo Ricky, Roing P.S Case No.14/2024 came to be registered. As noticed herein above, Millo

Ricky succumbed to his injuries on 12.05.2024 at 3:20 hours.

5. As noticed herein above, the Section 302 was so added after the death of Millo Ricky had occasioned on 12.05.2024. The Investigating Officer in the charge sheet on noticing the events taking place in the matter and by concluding that the alleged accused and his two associates had no intention to wrongfully and secretly confine late Millo Ricky, which was held to be substantiated by the fact that late Millo Ricky was taken to a public resort, then to an advocate chamber and then to a police station and handed over to a police officer, proceeded to request that Section 341 IPC and Section 365 IPC be dropped against all the accused persons, including the present accused. The case is now pending before the Court of the learned Sessions Judge, Anjaw/Dibang Valley/Lohit/Lower Dibang Valley/Namsai Districts at Tezu in Sessions Case No.18(LDV)/2024.

6. The learned counsel for the petitioner has submitted that a perusal of the charge sheet would reveal that the assault so committed by the alleged accused had occasioned only after Tadar Sumpi and the alleged accused had come out from the advocate's chamber, where they had proceeded for drafting an FIR against late Millo Ricky and the same was committed on account of the grave provocation arising upon hearing the disclosure made by Tadar Sumpi, before the Advocate about the brutal assault so made upon her by late Millo Ricky. The learned counsel for the petitioner has further submitted that the assault on Millo Ricky was not premeditated, inasmuch as, till the time Tadar Sumpi and the present accused had come out from the

advocate's chamber, there is no allegation of Millo Ricky being assaulted by the accused, herein. Accordingly, it is submitted that the provisions of Section 302 IPC would not be attracted against the accused herein and he would be entitled to the privilege of bail.

7. Mr. T. Ete, learned Additional Public Prosecutor appearing for the State respondent has submitted that the accused herein had admitted that he had assaulted deceased Millo Ricky. It is further submitted that it is the injuries so sustained by the deceased Millo Ricky on account of assault made on him by the present accused that had caused his death. Mr. T. Ete, has submitted that considering the statements of the witnesses examined, medical legal evidence and the nature of injuries inflicted upon the deceased by the accused herein, a *prima facie* case under Section 302 IPC, for murder, is well established against the present accused person. Mr. Ete, has further submitted that although there is nothing on record with regard to any past criminal antecedents of the present accused, but after his detention in judicial custody, it is highlighted that the accused has been involved in assault of his jail mates which had resulted in injury being caused to such mates of the accused herein, for which, separate proceeding has been instituted. Mr. Ete, in support of his contentions has relied upon the decision of the Hon'ble Supreme Court in the case of **Virupakshappa Gouda and Another Vs. State of Karnataka and Another** reported in **(2017) 5 SCC 406**.

8. I have heard the learned counsel for the parties and also perused the materials available on record.

9. The accused, herein, is in detention with effect from 18.06.2024 in connection with the above noted case, the charge sheet in the matter was filed on 01.09.2024 and the matter is now presently pending before the Court of the learned Sessions Judge, Anjaw/Dibang Valley/Lohit/Lower Dibang Valley/Namsai Districts at Tezu in Sessions Case No.18(LDV)/2024.

10. This Court has considered the charge sheet so filed in the matter along with the materials available on record to examine the nature of allegation so levelled against the alleged accused herein. Further the records were examined to understand the severity of punishment in case of conviction of the accused, herein and the nature of evidence available on record. This Court has also examined the records to appreciate the apprehension raised by the prosecution of the accused threatening the witnesses including the complainant, in the event of being enlarged on bail.

11. On an examination of a charge sheet and materials adduced thereto, this Court finds merit in the submission advanced by the learned counsel for the petitioner to the effect that assault on Millo Ricky was not premeditated and was in all probability done on a provocation occasioning on hearing the manner in which he had assaulted said Tadar Sumpi. However, the said aspect of the matter would be one which would be required to be so considered in the trial and a conclusion thereon at this stage cannot be arrived at. However, it be clear that the accused herein had no previous enmity with the

deceased Millo Ricky.

12. Given the peculiar facts involved in the matter leading to the death of the victim, Millo Ricky, who was actually an accused in the FIR filed by Tadar Sumpi, and the Investigating Officer, on conclusion of the investigation basing on materials coming on record, having requested for dropping of Section 341 IPC and 365 IPC so levelled against the accused and his associates in the matter, this Court is of the considered view that given the length of detention already undergone by the accused herein and also noticing that the investigation having been completed and charge sheet being filed, the case being ready for trial, the accused herein would be entitled to be enlarged on bail. However, with regard to the apprehension raised by the learned Additional Public Prosecutor of the accused herein intimidating the witnesses including the complainant, this Court is of the considered view that the said apprehension can be redressed by imposing rigid conditions, which would be imposed in the present order, while enlarging the accused, herein, in bail.

13. In view of the above, it is directed that the alleged accused, namely, Dehun Umbrey, shall be released on bail in connection with Sessions Case No.18(LDV)/2024 under Section 302/201/212 IPC (arising from Roing P.S. Case No.14/2024), on furnishing a bail bond of Rs.25,000/- with two sureties of like amount, of which one must be a close relative of the alleged accused herein, namely, Dehun Umbrey, subject to the following conditions;

(i) The accused herein shall appear before the Trial Court on all

dates so fixed in the matter and shall take part in all stages of the proceedings.

(ii) In the event, the accused herein is absent on any of the dates so fixed in the matter by the learned Trial Court without just cause, it will be open to the learned Trial Court to cancel the privilege of bail so granted to the accused, herein, vide this order.

(iii) The accused herein shall not either directly or indirectly make any inducement, threat or promise to any witnesses, so as to dissuade such witness from making truthful disclosure of the incident involved in the matter. In the event, there is any complaint made by any of the witnesses, including the informant, of the accused, herein, making any inducement, threat or promise so as to dissuade them from making truthful disclosure of the incident before the learned Trial Court, the learned Trial Court shall after hearing the accused, herein, with regard to such complaint, finds the complaint to be of any substance, proceed to cancel the liberty of bail so granted by this Court vide this order.

14. With the above observations and directions, the bail application stands disposed of.

JUDGE

Comparing Assistant