

GAHC040016382024



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

Case No. : BA/123/2024

Milli Tada
Son of Late Milli Tech, permanent resident of Pel Milli, PO and PS Raga, Kamle
District, Arunachal Pradesh.

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Tar Torum, Nabam Taro

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 06.12.2024

Heard Mr. T. Torum, learned counsel for the petitioner. Also heard Ms. T. Jini, learned Addl. Public Prosecutor appearing for the State.

2. The present application has been instituted by the petitioner, under Section 483 of the BNSS, 2023, praying for enlargement of his son *Milli Tedik @ Pige* (hereinafter referred to as 'the accused') on bail in connection with Sessions Case No. 02/2024(Z), under Sections 302/34 of the IPC, presently pending trial before

the Court of learned Sessions Judge, Lower Subansiri/Kamle/Kurung Kumey/Kra-Daadi District, Ziro.

3. The materials brought on record reveals that on receipt of a telephonic information from the Officer In-charge, Raga Police Station that one unknown dead body is lying at Medical Tiniali, Yada, the police of Raga Police Station proceeded to the site and had taken the dead body to Nido Techhi District Hospital, Raga. Basing on the said incident, a FIR was submitted by one Napho Wangsa, a Police official of Raga Police Station to the Officer In-charge of Raga Police Station on 30.10.2024. On receipt of the said FIR, Raga P.S. Case No. 14/2023, under Sections 302/34 IPC came to be registered. In the said FIR, it was stated that the deceased was latter known to be *Maga Tasin*. It was also contended in the FIR that the accused herein, *Mili Tada @ Pige* had surrendered himself and admitted that he had assaulted the deceased, who later succumbed to his injuries. The accused was accordingly, arrested on 30.10.2023 in connection with Raga P.S. Case No. 14/2023, under Sections 302/34 IPC and is in judicial custody since the date of his arrest. The police on completion of the investigation of the matter had submitted Charge-sheet against the accused and the learned Trial Court had framed a charge under Section 302/34 IPC against the accused herein.

4. The said accused person had moved before this Court by way of a bail application, praying for his release for appearing in his Class-XII Board Examination, being BA No. 09/2024 and this Court, vide order dated 04.03.2024, had granted bail to the accused for a period w.e.f. 18.03.2024 to 28.03.2024. Thereafter, the accused was directed to surrender before the learned Trial Court again.

5. It is seen that the accused had moved bail application before the learned Trial Court; however, the same came to be rejected. The scanned copy of the learned Trial Court's record as has been requisitioned by the Registry of this Court and

tagged with the records of the bail application, have been perused.

6. It is seen that in the Charge-sheet it has been projected that the deceased had called the sister of the present accused person, herein, on 29.10.2023 and both of them met near Paa stream during late evening hours. It is further projected that when the accused did not find his sister at his house and on receipt of a call from his friend *Kabak Tacho* that his sister had gone towards Dokum village, the accused along with three other co-accused went in search of his sister. It is submitted that the accused and his friends spotted his sister along with the deceased at Paa stream near Kamle Agency (Petrol Pump) and assaulted *Maga Tasin*. It is further submitted that the accused had admitted that he has assaulted his maternal Uncle out of anger but, with no motive to cause his death. The other three co-accused who had accompanied the present accused are all Juveniles in Conflict with the Law and were charged with similar offence, basing on the statement of the sister of the accused herein. It was projected in the Case Diary that the sister of the accused who was projected as the girlfriend of the deceased, had in her statement, stated that her boyfriend seemed alright and was standing behind the three co-accused before she along with the accused had left the place of occurrence to her home.

7. In the Charge-sheet, it was stated that a suspicion arises with regard to the involvement of the juveniles in Conflict with the Law i.e. the three friends of the accused person, who had gone along with him in search of the sister of the accused, inasmuch as, they had remained back at the place of occurrence after the accused and his sister had proceeded to their home. The learned Trial Court's record also indicates that the trial had commenced and the three witnesses have already been examined and discharged. One of the witnesses so examined as PW-1, is the sister of the accused herein.

8. A perusal of the deposition of PW-1 goes to show that she was declared to be

an hostile witness and was with due permission from the learned Trial Court, cross-examined by the Public Prosecutor. She has in her statement also indicated that the accused, herein, is innocent and nobody has witnessed him assaulting the deceased. However, she had raised a doubt with regard to the involvement of the three co-accused i.e. the Juveniles in Conflict with the Law, of having assaulted the deceased.

9. The learned Trial Court had fixed 30.01.2025, as the next date for production and examination of further PWs.

10. The learned counsel for the petitioner, Mr. T. Torum has submitted that the materials brought on record in the Charge-sheet filed as well as the statement of the prosecution witnesses already deposing in the trial of the case, no concrete materials have been brought on record to prove the involvement of the present accused with the assault of the deceased and submits that there is a great probability of the accused, being acquitted in the matter. Accordingly, Mr. Torum, submits that the deceased, who has been behind the bars for a period of more than one year, is entitled to be enlarged on bail.

11. Mr. T. Torum, learned counsel for the petitioner has further submitted the father of the accused, who is the present petitioner in the bail application has undertaken that he would stand as surety for the release of the accused herein. Accordingly, he submits that this Court also by appreciating the fact that the accused is a student pursuing his studies in Class-XII (Humanities stream), be pleased to enlarged him on bail.

12. Mr. T. Ete, learned Addl. Public Prosecutor has submitted that the materials brought on record by the Investigating Officer in the Charge-sheet so filed in the matter, would go to reveal that it is the accused herein, who had assaulted the deceased leading to his death and accordingly, there is a probability of he being convicted in the matter and accordingly, considering the nature of the offence and

the charge so leveled against the accused, this Court would be pleased not to enlarge the accused on bail.

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

14. As highlighted by the learned counsel for the petitioner, in the Charge-sheet itself, the Investigating Officer had raised a doubt with regard to the involvement of the present accused in the assault of the deceased which had caused his death.

15. I have also perused the statements made by the PW Nos. 1, 2 & 3 and find that the primary witnesses have already been examined in the matter. As to whether the accused, herein, is the one who had assaulted the deceased which had resulted in his death, is a matter that can be concluded only on conclusion of the Trial that is presently underway. However, considering the materials available on record and appreciating the submissions made in the matter by the learned counsel for the petitioner, without expressing any opinion on the merits of the matter, presently under trial before the learned Trial Court, this Court is of the considered view that the accused is entitled to be enlarged on bail.

16. Accordingly, it is directed that the accused namely, *Milli Tedik @ Pige*, shall be released on bail in connection with Sessions Case No. 02/2024(Z), under Sections 302/34 of the IPC, on furnishing a bail bond of Rs. 25,000/- with two sureties of which one must be a close relative of the alleged accused herein, namely, *Milli Tedik @ Pige*, 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 make any inducement, threat or promise to any witness, 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 Trial Court after hearing the accused herein, with regard to such complaint, finds such complaint to be of any substance, proceed to cancel the liberty of bail so granted by this Court vide this order.

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

JUDGE

Comparing Assistant