

GAHC040018502024



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

Case No. : BA/135/2024

Shri Kipa Talling
S/o Sh. Kipa Nikio, R/o Chimpu, Itanagar, P.O R.k Mission, P.S Chimpu, Papum
Pare, Arunachal Pradesh.

VERSUS

THE STATE OF AP
through the ld. public Prosecutor

Advocate for the Petitioner : R Taku, Michi Khambo, Binny Nyaruce, Rajesh Sonar

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 24.12.2024

Heard Mr. R. Sonar, learned counsel for the applicant. Also Heard Ms. T. Jini, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 483 of BNSS, 2023, praying for grant of bail to the accused, namely, Smti. Charu Nargish Kipa, in connection with Papu Hill Police Station Case No. 99/2024, under Sections 126(2)/304(2)/281/117(2)/3(5) of BNS, 2023, who has been arrested on 04.12.2024.

3. The case set up by prosecution is that on 03.12.2024, an FIR was lodge before the Officer-In-Charge, Papu Hill Police Station, Naharlagun by one Smti. Tarh Hura Yakek to the effect that on 29.11.2024, around 2:30 PM, one Smti. Kipa Nargish, the accused herein, with 2(two) other ladies and one man attempted to block the vehicle of the complainant at NH-415 6KM from Naharlagun to Itanagar. Again they have attempted twice at 2KM but somehow the complainant escaped from their clutches. Finally, the vehicle of the complainant was chased nearby Wednesday weekly market, Papu Nallah and blocked her vehicle and thereby, snatched her money purse which contained cash amount of Rs. 14,000/- (Rupees Fourteen thousand) and thereafter, assaulted physically to her along with her one month baby in front of public on the road. The complainant become unconscious due to injury sustained on account of the assault and she found herself admitted in the Horman Hospital.

4. On receipt of the aforesaid FIR, the police has registered the case being Papu Hill Police Station Case No. 99/2024, under Sections 126(2)/304(2)/281/117(2)/3(5) of BNS, 2023.

5. Mr. R. Sonar, learned counsel for the applicant submits that the accused is the wife of one Shri Charu Akey and he is serving as Data Entry Operator in the District Transport Office at Palin, in the District of Kra Daadi, Arunachal Pradesh. He submits that the accused has filed an FIR on 02.12.2024, against her husband Shri Charu Akey, and the complainant herein was the one who had attacked her with the husband Shri Charu Akey. The present FIR has been filed by way of counterblast to the FIR filed by the complainant on 02.12.2024, which has been registered as Papu Hill Police Station Case No. 98/2024.

6. Mr. R. Sonar, learned counsel submits that the instant case has arisen out of the

familial dispute between the alleged accused person and the complainant. He submits that the present accused is the real victim in the instant case, as the incident had emanated from series of incidences, due to an affair by husband of the accused with the complainant and consequent, impregnation of the complainant. The accused in fact in her self-defence only had to retaliate as the complainant had attempted to assault the accused by the stick. Unfortunately, husband in support of the complainant had fired a bullet from his pistol, which lead to damage of the car of the accused. Therefore, the incident being purely of family dispute and the complainant and her husband assaulted the accused herein and since, she was arrested on 04.12.2024, and the investigation has been completed, the accused Smti. Kipa Nargish may be released on bail.

7. Ms. T. Jini, learned Additional Public Prosecutor by placing the Case Diary and status of the case submits that the case is pending for MLC report, prosecution sanction and for recovery of amount of Rs. 14,000/- (Rupees Fourteen thousand) which alleged to have been robbed from the complainant. She also submits that as per the record, the investigation is in its early stage and the complainant is still undergoing medical treatment alleging deep trauma due to the incident. Therefore, granting bail at this stage will hamper the investigation, as such, the accused is not entitled to be released on bail.

8. Perused the Case Diary and the status report, it appears that the investigation is in the preliminary stage and the victim is said to be still under medical treatment. However, having considered the submissions of the learned counsel for the applicant as well as the materials placed on record, it clearly indicates that the incident emanates from purely family dispute as the complainant is said to be third wife of one Shri Charu Akey, the husband of the accused hererin.

9. Having considered that the accused person was arrested on 04.12.2024, the allegations and counter allegations reflects that both the complainant and the accused had assaulted each other wherein, the husband Shri Charu Akey, has also intervened, I am of the view that the alleged accused Smti. Charu Nargish Kipa is entitled to be released on bail. Therefore, the accused, namely, Charu Nargish Kipa shall be released on bail on furnishing a bail bond of Rs. 15,000/- (Rupees Fifteen thousand) only with one surety of like amount to the satisfaction of the learned JMFC, Yupia, with the following conditions:

- (i)** That the accused shall not meet and pressurize the complainant in any manner.
- (ii)** That the accused shall fully co-operate with the investigation of the case and she shall appear before the Investigation Officer as and when called for;

10. This bail application stands allowed and is disposed of.

JUDGE

Comparing Assistant