

GAHC010001482024



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

Case No. : Bail Appln./11/2024

MD MUSTAFA ALI @ SHEIKH
S/O LATE FALU UDDIN @ SHEIKH, R/O VILL-GORMARA PATHAR, P.S.-
DHEKIAJULI, DIST-SONITPUR (ASSAM), PIN-784111

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. U NANDA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

25.01.2024

Heard Ms. U. Nanda, learned counsel appearing for the accused petitioner as well as Mr. D. Das, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely,

Md. Mustafa Ali @ Sheikh, has prayed for grant of bail in connection with **Dhekiajuli P.S. Case No.233/2023** under Sections **302/34** of the IPC, corresponding to G.R. Case No. 1861/2023.

The case diary, as called for, is placed before the Court.

The accused petitioner has been in judicial custody since 24.11.2023.

The case of the prosecution is that about one year ago, the informant's mother with the help of accused No. 2, namely, Md. Hazrat Ali, ran away and got married with the present petitioner. It is alleged that the informant's mother had expired and it is suspected that the accused person intentionally killed her. Accordingly, a case was registered.

Ms. Nanda, learned counsel for the petitioner, submits that there was love affair between the petitioner and the informant's mother, who, out of affection, ran away and after she repented of being ran away with the petitioner committed suicide by consuming poison. She further submits that the petitioner is not in any way connected with the incident and he is innocent.

Mr. D. Das, learned Addl. P.P., Assam, on the other hand, strongly opposes the prayer of bail. He submits on the basis of materials available on the case diary that there are materials available on record indicating that the petitioner and the deceased used to quarrel frequently. He further submits that the FSL report is yet to be received. That apart there is no other adverse material against the petitioner.

I have considered the submissions made at the Bar and have perused the materials available on record including the case diary.

It appears that the petitioner has been languishing since last 61 days.

That being so, considering the entire aspects of the matter, particularly the length of detention, vis-à-vis Article 21 of the Constitution of India, there is no justification keeping the petitioner behind the bar and, as such, the prayer of the petitioner is allowed.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 30,000/-** with one surety of like amount to the satisfaction of the **learned C.J.M., Sonitpur** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required; and
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court; and
- iii) That the learned Trial Court may impose any additional conditions of bail if it deems fit to do so at any time while the petitioner is enlarged on bail.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant