

GAHC010007942024



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

Case No. : Bail Appln./143/2024

ZOHIRUL ISLAM SARKAR @ JOHIRUL ISLAM SARKAR
S/O NURAL ISLAM SARKAR
R/O VILL- BANGALIPARA PART-I,
NEW FALIMARI
P.S. BILASIPARA
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR Z ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

23.01.2024

- 1.** Heard Mr. Z. Alam, learned counsel for the accused petitioner. Also heard Mr. K.K. Parasar, learned Addl. P.P., Assam appearing for the State respondent.
- 2.** This is an application under Section 439 of the Code of Criminal Procedure, 1973

for granting regular bail to the accused petitioner, namely **Zohirul Islam Sarkar @Johirul Islam Sarkar**, who was arrested on 17.12.2023, in connection with **Bilasipara P.S. Case No.471/2023** under Sections **120B/338/307** of the IPC.

3. The case of the prosecution, in brief, is that on 17.12.2023, while the informant's brother was going to the shop, he was hit from behind by one four wheeler vehicle bearing registration No. AS 01BM 1227, which was driven by the accused petitioner. The informant's brother received grievous injuries and it was alleged that the incident was because of old enmity between the accused petitioner and the informant's brother. Accordingly, a case was registered under Sections 120B/338/307 of the IPC.

4. Mr. Z. Alam, learned counsel for the accused petitioner submits that the petitioner is totally innocent and is in no way connected with the alleged offences and that there is no incriminating material against him. He further submits that no grievous hurt was caused by the aforesaid alleged act endangering the life of the informant's brother. He further submits that the allegations made in the FIR only attracts a case, if any, under Section 279 of the IPC and no case under Section 307 of the IPC is made out.

5. Mr. K.K. Parasar, learned Addl. P.P, on the other hand, submits on the basis of the case diary received that the investigation is going on and statement of the accused petitioner has been recorded. He further submits on the basis of the medical report available in the case diary that the injury sustained by the informant's brother is simple in nature.

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

7. It appears from the case diary that the vehicle had accidentally touched the informant's brother and accordingly, the informant's brother sustained simple injury. That being so and also considering the length of detention and the fact that the statement of the accused petitioner has already been recorded, this Court is of the

opinion that further custodial detention of the petitioner is not necessary.

8. Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.30,000/- (Rupees Thirty Thousand)** with one surety of like amount to the satisfaction of learned **S.D.J.M. (M), Bilasipara** subject to the following conditions-

- i) That the accused petitioner shall cooperate with the Investigating Officer as and when required;
- 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) The accused petitioner shall refrain from such activities with which he is alleged, failing which, the bail order shall stand cancelled.

9. Return the case diary.

10. The bail application stands disposed off.

JUDGE

Comparing Assistant