

GAHC010022592024



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

Case No. : Bail Appln./347/2024

MD. SURAJ ZAMAL
S/O MD. FAIJUDDIN ALI
R/O HAHCHORIGAON
P.S. CHHAYGAON
DIST. KAMRUP, ASSAM
PIN-781137

VERSUS

THE STATE OF ASSAM
TO BE REP. BY PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 07.02.2024

Heard Mr. A. K. Azad, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/petitioner, namely, Md. Suraj Zamal, who has been languishing in jail since 26.12.2023 in connection with Sonapur P.S. Case No. 276/2017 under Sections 366(A)/34 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner, Mr. Azad, that the incident occurred in the year 2017 and the FIR was lodged on 23.09.2017 and after 6/7 years of the incident, the present petitioner was arrested in connection with this case on 26.12.2023 and since then, he is behind the Bar. He also submits that the forwarding report revealed that the victim has already been recovered and her statement has also been recorded in connection with this case. More so, the accused is behind the bar since 26.12.2023 and thus, he has been in custody for last 42 days and moreover, he was also not in police remand. Accordingly, it is submitted that the further custodial detention of the present accused/petitioner is not necessary and prayed to enlarge the accused/petitioner on bail.

On the other hand, Mr. Borthakur, learned Public Prosecutor, submits that, though, it is a fact that the petitioner was arrested after 6/7 years of the incident; however, the forwarding report revealed that the accused/petitioner

was involved in the alleged incident. Further, it is submitted by the learned Public Prosecutor that the petitioner is already behind the bar for last 42 days and accordingly, his further custodial interrogation may not be necessary in the present case.

After hearing the submissions of learned counsels for both sides and also considering the fact that the accused/petitioner has been arrested after 6/7 years of the incident and he is behind the bar since 26.12.2023, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody.

Considering the submissions of learned counsel for both sides and also considering the fact that the victim has already been recovered and further considering the length of detention already undergone by the accused/petitioner, i.e. 42 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the Chief Judicial Magistrate, Kamrup (M), the accused/petitioner, namely, Md. Suraj Zamal, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the 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 Court or to any police officer; and

- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup (M), without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant