

GAHC010022762024



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

Case No. : Bail Appln./371/2024

ASAD UDDIN
S/O LATE HARUN MIA
R/O VILL- DHIT BOTORASHI
P.S. KARIMGANJ
DIST. KARIMGANJ, ASSAM

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 20.02.2024

Heard Mr. HRA Choudhury, learned senior counsel, assisted by Ms. R. Deka, learned counsel for the petitioner and Mr. D. Das, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 439 Cr.P.C., filed by the petitioner,

namely, Asad Uddin, praying for regular bail, who was arrested on 22.08.2023 in connection with Sessions Case No. 212 of 2023 arising out of Karimganj P.S. Case No. 552/2023, registered under Section 376 IPC, pending in the Court of the learned Additional Sessions Judge, Karimganj.

Scanned copy of the LCR alongwith the case diary is received and perused.

Heard both sides.

It is submitted by Mr. Choudhury, the learned senior counsel for the petitioner that the accused/ petitioner is an innocent and he is in no way involved with the alleged offence. However, charge has been framed on 22.12.2023 and he is behind the bar since for more than 5 months. He further submits that as the charge has already been framed, the question of hampering the evidence and tempering with the case does not arise at this stage and considering the length of detention, the prayer for bail may be considered.

In this Context, Mr. Das, the learned Additional Public Prosecutor has submitted that present victim is a deaf and dumb person and if the accused/ petitioner is enlarged on bail at this stage, there is every probability of tempering the evidence, more particularly, the victim. Considering the nature of gravity of offence and considering the fact that the victim is a deaf and dumb person, bail prayer may not be considered.

After perusing the case record including the case diary and after hearing the submissions of the learned counsel for both the parties, it is seen that the accused is behind the bar for a considerable period and charge has been framed against the accused/ petitioner. However, possibility of tempering the evidence of the case, especially the victim cannot be denied at this stage.

Accordingly, I do not find it proper to allow the petitioner to go on bail at this stage. However, the learned trial Court is hereby directed to record the evidence of the victim of this case, expeditiously, preferably within a period of one month.

With the above observation and direction, this bail application is disposed of.

JUDGE

Comparing Assistant