

GAHC010024032024



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

Case No. : Bail Appln./336/2024

SAFIR UDDIN
S/O LATE SIRAJ ALI,
RESIDENT OF VILL- HATIKHUTI, P.S- KACHUA, NAGAON, ASSAM, 782426

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR M RAHMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

22.02.2024

Heard Mr. M. H. Ahmed, learned counsel for the petitioner. Also heard Mr. K. K. Das, 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, Safir Uddin @ Sakir Uddin, who has been languishing in jail since 13.09.2023 in connection with G. R. Case No.181/2008, registered under Section 366(A)/34 of IPC arising out Bokajan P. S. Case No.50/2008 which is pending before the Court of learned SDJM, Bokajan, Karbi Anglong.

The scanned copy of the LCR has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Ahmed that the accused/petitioner was granted bail in connection with this case on 21.07.2008 and his bail bond was accordingly submitted on 22.07.2008 by his own father who also stood as a bailor for him. He also submitted that after filing of the charge-sheet, he never received any summon. From the report of the process server, it is seen that summon issued against the accused/petitioner was received by one Suruj Ali son of Mohammad Ali who is not his father and he never received any summon after filing of the charge-sheet. Thereafter, considering the absence of the accused/petitioner, the NBWA was issued and at the relevant time his father namely, Siraj Ali was not alive. But, subsequently, he was arrested in connection with this case on 13.09.2023 and since then, he is behind the bar. Accordingly, he prays for bail considering his length of detention. He also submitted that the other co-accused is still absconding and hence, till his appearance the learned Trial Court is not a position to commit the case before the Sessions Court.

On the other hand, Mr. Das, learned Additional Public Prosecutor, submits that the accused/petitioner was earlier granted bail on 21.07.2008, and since, then, he was absconding. The other co-accused is also absconding. Hence, the probability of absconding of the present/petitioner also cannot be denied in this case and accordingly he raised objection in allowing the accused/petitioner to go on bail.

Considering the submissions of learned counsel for both sides as well as I have perused the scanned copy of the case record. It is seen that summon was issue to the present petitioner after filing of the charge-sheet which was received by one Suruj Ali, son of Mohammad Ali who is not the father of the present petitioner. Thereafter, there is no other report of summon issued to the accused/petitioner nor any subsequent summon was duly served to the accused/petitioner. More so, from the record, it is seen that one Siraj Ali stood as a bailor who is claimed to be the father of the present petitioner. It is a fact the other co-accused is still absconding for which the case could not be committed by the learned Court below. Thus, considering the entire aspect of the case and the length of detention already undergone by the accused/petitioner, this Court is of the opinion that further custodial detention 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 learned SDJM, Bokajan, Karbi Anglong, the accused/petitioner, namely, **Safir Uddin @ Sakir Uddin**, be enlarged on bail, subject to the following conditions:

- (i) 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
- (ii) that the petitioner shall not leave the jurisdiction of the learned SDJM, Bokajan, Karbi Anglong, without prior permission.

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

The LCR be sent back.

JUDGE

Comparing Assistant