

GAHC010030882024



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

Case No. : Bail Appln./419/2024

NAJMUL ALI
S/O JAHAR ALI, R/O MADULIJAR, P.S. SORBHOG, DIST., BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. MUSTAFA HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 01.03.2024

Heard Mr. R. Ali, learned counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal

Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been languishing in jail hajat in connection with Sessions Case No. 254/2023, under Section 306 of the Indian Penal Code, arising out of Sorbhog P.S. Case No. 94/2023.

Scanned copy of the LCR, along with the Case Diary, has already been received. Perused the same. Heard both sides.

It is submitted by Mr. Ali, learned counsel for the petitioner, has submitted that the case has already been Charge-Sheeted and is presently pending at the stage of trial. The accused is behind the bar for last 164 days and hence, considering his length of detention, he may be enlarged on bail. Further he submitted that the vital witnesses are already been examined by the learned Court below and hence, the question of hampering and tampering the witnesses does not arise at this stage. He is a local person and he will appear before the learned Court below on each and every date and will face the trial if he is enlarged on bail.

In this context, Mr. Parasar, learned Additional Public Prosecutor, has submitted that out of 8 (eight) witnesses, 6 (six) numbers of witnesses are already been examined and 4 (four) numbers of witnesses have stated against the present accused/ petitioner showing his direct involvement in the alleged offence. There cannot be any proper opinion as the viscera of the deceased could not be sent for FSL as the body was already decomposed. He further submitted that the case is also Charge-Sheeted within 1 (one) month, i.e. on 30.09.2023, and already 6 (six) numbers of witnesses are being examined and

the case is proceeding very expeditiously and hence, the trial may be concluded within 3-4 months. He further submitted that at this stage, if the accused is allowed to go on bail, the probability of absconding as well as hampering with the other evidences cannot be denied and accordingly, he raised objection in allowing the accused/petitioner to go on bail at this stage.

After considering the submissions made by the learned counsels for both sides and on perusing the scanned copy of the LCR as well as Case Diary, it is seen that already 6 (six) numbers of witnesses are already being examined by the learned Trial Court and the trial is going on expeditiously. Further it is seen that the next date for evidence/hearing of the case is fixed on 02.03.2024 and hence, the probability of examining of some more witnesses can also be expected within these period. Thus, it is seen that the final hearing of the case may be taken place within a short period of time and hence, at this stage, I do not find it justified to allow the accused to go on bail, rather it may hamper the trial of this case or the probability absconding cannot be denied; and therefore, I find it not a fit case to extend the privilege of bail to the accused/petitioner and accordingly, the same stands rejected.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant