

GAHC010035892024



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

Case No. : Bail Appln./490/2024

SRI BIJOY DAS @ BIJAY DAS
S/O BIPUL DAS
RESIDENT OF HOUSE NO. 112 GOSAIBARI, PS BASISTHA, GUWAHATI
DISTKAMRUP M ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. N MAHAJAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 28.02.2024

Heard Mr. BK Mahajan, 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, Sri Bijoy Das @ Bijay Das, praying for regular bail, who was arrested on 15.02.2024 in connection with Basistha P.S. Case No. 74/2024, registered under Sections 326/ 34 IPC.

Case diary is received and perused. Also perused the materials available on record.

Heard both sides.

It is submitted by Mr. Mahajan, the learned counsel for the petitioner that the petitioner is the employee under the co-accused Sri Palash Das, was engaged in his shop. As per the FIR, it is seen that the incident took place on 24.10.2023 and FIR was lodged on 30.01.2024 i.e. after about a delay of 100 days from the date of incident. He further submits that the accused/ petitioner is behind the bar since 15.02.2024 and since then he is languishing in hajat. The accused petitioner is no way involved with the alleged offence and considering the length of detention undergone by the petitioner, his bail prayer may be considered. He further submits that on the date of incident, an altercation and scuffles took place between the two groups and the victim sustained injury but, he never assaulted the victim. He also submits that the informant/ victim blocked the road by parking his vehicle and he used to do this kind of things in earlier occasions also and due to influence of alcohol, he did all this things and there was an altercation and scuffles between the two groups and in that altercation the victim sustained some injury. He further submits that the contents of the FIR does not attract the section 326 IPC rather, it attracts the Section 335 IPC as injury caused due to certain provocation and at the hit of moment during the scuffle and altercation. He further, submits that the petitioner is ready and willing to cooperate with the I.O., if he is enlarged on bail.

In this Context, Mr. D. Das, the learned Additional Public Prosecutor has submitted that there are sufficient incriminating materials available against petitioner. The victim was also accompanied with two persons and the incident took place due to wrong parking of vehicles on the road. He submits that from the statement made in the case diary, it reveals that due to certain provocation and at the hit of the moment, the incident took place and due to altercation and scuffle, the victim sustained head injury as he dashed against a wall. He further submits that considering the materials available in the case dairy and the period of detention, the bail prayer of the present petitioner may be considered.

The learned Addl. PP submits that from the case diary it is seen that the accused/ petitioner was supposed to give compensation of Rs. 1,50,000/- and through his uncle, it has

already paid. However, after demand of another amount of Rs. 1,00,000/- the present petitioner refused to give the said money for which the FIR was lodged by the complainant.

After hearing the submissions of the learned counsel for the parties and considering the materials available in the case diary as well as considering the period of detention already undergone by the accused/petitioner, I find it to be a fit case to enlarge the petitioner on bail. Accordingly prayer for bail is allowed. It is directed that the accused/ petitioner be released on bail on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) with 1 (one) suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (Metro), Guwahati.

The direction for bail is, however, subject to certain conditions that the accused-petitioner:

- (a) shall not leave the territorial jurisdiction of the learned Chief Judicial Magistrate, Kamrup (Metro), Guwahati, without prior written permission from him/ her;
- (b) shall not hamper with the investigation of the case and tamper with the evidence of the case; and
- (c) 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.

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

Return the case diary.

JUDGE

Comparing Assistant