

GAHC010036212024



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

Case No. : AB/477/2024

REJJAK ALI
S/O LT. KOYSER ALI @ GATHU
R/O VILL- KURSHA KATI
P.O. RANIGONJ, P.S. SAPATGRAM
DIST. DHUBRI, ASSAM
PIN-783345

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 22.03.2024

- 1.** Heard Mr. S. Ahmed, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973 has been preferred by the petitioner, namely, *Rejjak Ali*, who is

apprehending his arrest in connection with Sapatgram P.S. Case No. 68/2023 under Sections 120(B)/457/302 of the Indian Penal Code.

3. The accusation in this case is that on 27-08-2023, one Sirajul Haque lodged an FIR before the In-charge of Rani Ganj Police Outpost under Sapatgram Police Station, inter-alia, alleging that on the night of 25-08-2023, 8(eight) numbers of accused persons named in the FIR, including the present Petitioner, illegally trespassed into the house of the elder brother of the first informant, namely Shah Jalal Sheikh, and brutally killed him along with his wife, Narzima Begum, with sharp weapons, and thereafter fled away. On the next day, the family members of the brother of the first informant found the dead bodies of both the deceased persons.

4. Learned counsel for the petitioner has submitted that the present petitioner has been falsely implicated in this case by mentioning his name in the FIR though he is in no way connected with the offence alleged in the FIR. It is also submitted by the learned counsel for the petitioner that all the other co-accused named in the FIR have already been released on bail by this court by order dated 06.10.2023 passed in Bail Application No. 3607/2023.

5. Learned counsel for the petitioner has also submitted that the name of the present petitioner has been included in the FIR only on the basis of suspicion without any materials thereon record to implicate him in this case. It is also submitted by the learned counsel for the petitioner that as the other accused persons named in the FIR are already on bail, the present petitioner may also be granted anticipatory bail and he would cooperating with the Investigating Officer in the investigation of the case.

6. On the other hand, learned Additional Public Prosecutor has vehemently

opposed the grant of anticipatory bail to the present petitioner on the ground that during the investigation, it has come to the light that the petitioner has close relation with the other FIR named accused and he has also given shelter to one of the co-accused, namely, Sahidul Islam and there are materials to show that the conspiracy to murder the deceased was made in the house of the present petitioner.

7. I have considered the submissions made by learned counsel for both the sides and have perused the material available on record including the case diary of Sapatgram P.S. Case No. 68/2023, which was called for in connection with this case.

8. It appears from the perusal of the case diary that no direct evidence of the commission of the offence alleged in the FIR or any scientific evidence to connect the present petitioner with the alleged offence could yet been collected by the Investigating Officer at this stage of investigation. Apart from suspicion, there is no other cogent material on record against the present petitioner. Moreover, when some of the co-accused have already been granted bail and when the present petitioner is undertaking to cooperate in the investigation, his liberty may not be curtailed merely on the basis of strong suspicion as howsoever strong suspicion may be there, it may not substitute credible evidence which is not available against the present petitioner at the stage of the investigation.

9. In view of the above, the above named petitioner is hereby directed to appear before the Investigating Officer of Sapatgram P.S. Case No. 68/2023 within a period of ten days from the date of this order. If he does so, within the stipulated period of time, in the event of his arrest, in connection with Sapatgram P.S. Case No. 68/2023, he shall be allowed to go on bail of

Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount to the satisfaction of arresting authority, subject to the following conditions:

- i. The petitioner shall make himself available for interrogation as and when so required by the Investigating Officer during the pendency of the investigation of Sapatgram P.S. Case No. 68/2023;
- ii. The petitioner shall not leave the jurisdiction of Dhubri district without prior leave of learned SDJM, Bilasipara and intimation to the Investigating Officer of Sapatgram P.S. Case No. 68/2023 during the pendency of the investigation;
- iii. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person or persons who may be acquainted with the facts of this case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

10. With the above observation, this anticipatory bail application is hereby disposed of.

11. Send back the case diary.

JUDGE

Comparing Assistant