

GAHC010052592024



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

Case No. : Bail Appln./732/2024

ARBAZ KHAN
S/O MD. MOFIDUL ISLAM
R/O VILL- KABAITARY PART-5, P.O. JOGIGHOPA, DIST. BONGAIGAON,
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR Z KAMAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 13.03.2024

Heard Mr. Z. Kamar, learned Senior counsel assisted by Mr. B.K. Das, learned counsel for the petitioners. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor appearing for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by

the petitioner, namely, **Md. Arbaz Khan**, in connection with **Bongaigaon P.S. case NO. 84/2024**, registered under Section **279/304/338/427 IPC r/w Section 185 of M.V. Act**.

The learned Senior counsel for the petitioner submits that the petitioner is a student pursuing for preparation for IAS in Bengaluru. The incident occurred due to an accident and there is no intention on the part of the petitioner. The petitioner was driving his vehicle bearing Regd. No. AS-26-E-8844, collided with a tempo bearing Regd. No. AS-19-AC-3447, as a result of which, the incident occurred. So, the offence under Section 304 IPC is not attracted here in this case but Section 304 A IPC, which is bailable in nature. It is further submitted that the other offences as alleged in the FIR, are also bailable in nature. Considering the background of the case and nature of offence, the petitioner may be enlarged on bail.

On the other hand, Mr. Kaushik, learned Additional Public Prosecutor for the State has stated that after receipt of the case diary, bail may be granted to the petitioner.

I have considered the submissions made by the learned counsel for the parties.

As per FIR, it is true that one person died in the alleged incident. However, the incident occurred due to an accident between a tempo and a vehicle. Apparently, it appears that the petitioner has committed the offence under Section 304(A) IPC.

Considering the fact as well as the nature of offence, this Court is of the view that further custodial interrogation of the accused-petitioner is not necessary for the purpose of investigation of the case.

Accordingly, the accused-petitioner, named above, shall be released on bail

in connection with **Bongaigaon P.S. case NO. 84/2024**, registered under Section **279/304/338/427 IPC r/w Section 185 of M.V. Act**, on furnishing bail bond of **Rs.20,000/- with a suitable surety** of the like amount to the satisfaction of learned CJM, Bongaigaon, Assam.

The direction for bail is further subject to the conditions that the accused-petitioner:

- (a) shall not leave the territorial jurisdiction of learned CJM, Bongaigaon, Assam, without prior written permission from him/her;
- (b) 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 them from disclosing such facts to the Court or to any police officer.

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

JUDGE

Comparing Assistant