

GAHC010053622024



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

Case No. : Bail Appln./775/2024

CHAFIR ALI @ SAFIQUE ALI
S/O LATE ABDUL KHALEK
VILL- GUBORISALI
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

08.04.2024

Heard Mr. M.H. Ahmed, learned counsel for the petitioner. Also heard Mr. M.P. Goswami, learned Addl. P.P, Assam appearing for the State respondent.

2. This is an application under Section 439 of the Cr.P.C. for granting bail to

the petitioner, namely **Chafir Ali @ Safique Ali**, who was arrested on 29.07.2023 and forwarded to the Court of learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur on 30.07.2023 in connection with **Sessions Case No. 230(NL)/2023** under Sections **380/302/34** of the IPC, corresponding to **North Lakhimpur P.S. Case No. 285/2023**.

3. The case of the prosecution is that on 28.07.2023, the informant's son saw two men taking a goat from the informant's brother's house on a motorcycle. He accordingly started shouting and chased the said two men in his scooty. However, the two men took advantage of the darkness and seriously injured his son with a sharp weapon. Though his son was taken to the hospital, he was declared dead. Accordingly, FIR was registered.

4. Mr. M. H. Ahmed, learned counsel for the petitioner, submits that the petitioner is not involved in the offence alleged. He further submits that the trial has commenced and out of 33 witnesses, only 8 witnesses have been examined. He also submits that the petitioner has been languishing in jail since last 253 days. In view of the fact that the trial is likely to take time, he submits that the petitioner may be allowed to go on bail.

5. Mr. M.P. Goswami, learned Addl. P.P, on the other hand, strongly opposes the prayer for bail. He submits that there are materials available on record collected by the Investigating Officer to the effect that the petitioner along with the co accused were the two main accused persons in the case. He further submits that the statements of the witnesses recorded under Sections 161 and 164 Cr.P.C clearly indicates that there are incriminating materials against the petitioner. He further submits that it is the petitioner who along with the co-

accused has in a gruesome and brutal manner injured the informant's son, for which he ultimately lost his life.

6. I have heard the submissions made at the bar and have perused the materials available on record.

7. It appears from the LCR produced before the Court that there are sufficient materials implicating the petitioner for the offence alleged. It further appears from the statements of the witnesses recorded both under Section 161 and 164 Cr.P.C., that the petitioner is involved in the alleged offence. It further appears that the informant's son has been brutally gruesomely assaulted by the petitioner along with the other co-accused. It further appears that there are adverse materials as regards the antecedents of the petitioner. It further appears that there has been an apprehension raised by the Investigating Officer to the effect that if the petitioner is allowed to be on bail, he shall tamper the witnesses, which will hamper the trial. It appears that out of 33 witnesses only 8 witnesses have been examined till date.

8. Considering the facts and circumstances of the case, this court is not inclined to grant bail to the petitioner at this stage.

9. Accordingly the bail application stands dismissed.

JUDGE

Comparing Assistant