

GAHC010056232024



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

Case No. : Bail Appln./800/2024

SUDARSHAN DAS @ SUDARSHAN BISWAS
S/O LATE SACHINDRA BISWAS
R/O VILL- DURUNG
P.S. KHETRI
DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 04.04.2024

Heard Mr. N.K. Kalita, learned counsel for the petitioner. Also heard Mr. P. Borthakur, 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, namely Sri Sudarshan Das @ Sudharshan Biswas who has been languishing in jail hazot in connection with Khetri P.S. Case No.21/2013 corresponding to G.R. No.

1523/2013 under Sections 326 (added Section 302 IPC).

Scanned copy of the case record has been received. Perused the same. Head both sides.

It is submitted by Mr. N.K. Kalita, learned counsel for the petitioner, that the accused is behind the bar for the last 2 (two) years and 8 (eight) months in connection with this case and till date, the prosecution could examine only three numbers of witnesses. More so, the informant, who is the brother of the deceased, has already been examined and there is no chance of tampering with the evidence of other witnesses. All the witnesses are matured persons. It is further submitted that the accused/petitioner will appear before the learned Court below regularly if he is granted with bail. He further submitted that the learned Additional Sessions Judge No.5, Kamrup(M) had rejected the bail prayer of the accused/petitioner only on the ground that one eye witness is yet to be examined.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that the FIR was filed in the year 2013 and police could arrest the present accused only in the year 2021 and thereafter the Charge-Sheet was filed, charges were framed and three witnesses were also examined. As the petitioner was absconding for last 8 years hence, without examining the witnesses of the prosecution if the accused petitioner is allowed to go on bail he may abscond and may influence the other witnesses of the case, specially the eye witness who is yet to be examined, and accordingly he raised objection in granting bail to the petitioner.

After hearing the submissions made by the learned counsels for both sides, I have perused the scanned copy of the case record and it is seen that 3 (three) prosecution witnesses have already been examined in connection with this case. It is a fact that for the last one year, the prosecution could not produce any witness and at the same time, it is also a fact that the accused petitioner is behind the bar for the last two years eight months. However, considering the submission made by the learned Additional Public Prosecutor, the probability of absconding cannot outrightly be rejected as the petitioner was arrested in connection with this case only after 8 (eight) years of lodging of the present FIR.

In view of above and also considering the entire aspects of the case the probability of absconding and/or influencing the remaining eye witnesses cannot be outrightly rejected and hence, I do not find it a fit case to extend the privilege of bail to the accused/petitioner at this stage and accordingly, the same stands rejected.

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

JUDGE

Comparing Assistant