

GAHC010071402024



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

**Case No. : Bail Appln./1015/2024**

KRISHNA SHILL  
S/O SHYAMAL SHILL  
VILL- PALLIRTOL  
P.S. JOGIGHOPA  
DIST. BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM  
REP BY THE PP, ASSAM

**Advocate for the Petitioner : MR. A T SARKAR**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HON'BLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**24.04.2024**

Heard Mr. A.T. Sarkar, learned counsel for the accused and also heard Ms. N. Das, learned standing counsel, appearing for the State respondent.

2. This application, under Section 439 of the Code of Criminal Procedure, 1973, is

preferred by accused, namely, Krishna Shill, who has been languishing in jail hazot since 10.03.2023, in connection with the Sessions Case No. 27(J) 2023, corresponding to Jogighopa P.S. Case No. 94/2023, u/s 302 IPC, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Aren Ch. Das on 09.03.2023. The essence of allegation against the accused Krishna Shill is that on 08.03.2023, at about 10.45 pm he was creating ruckus at 'Daul Festival', being observed at Borghola Anchalik Daul Mandir and he mounted attack upon one Robin Shill, Shivdas Shill and Sadhan Paul by means of a sharp object while they tried to pacify him. Then on the request of mother of the accused, one Tarini Das tried to pacify him, but, the accused administered blow over the chest of Tarini Das by means of a sharp object, as a result, Tarini Das sustained grievous injury on his person and succumbed to the same on the spot.

4. Mr. Sarkar, learned counsel for the accused submits that the accused was arrested on 10.03.2023 and for more than one year he has been languishing in jail hazot and that the learned Court below has already framed charge against the accused under Section 302 IPC and thereafter, examined 5 witnesses out of 15 witnesses cited in the charge-sheet and that there is no immediate prospect of completion of trial and that this is the second bail application, and the first one was dismissed by this Court on 24.08.2023 after perusing the case diary and while dismissing the first petition, this Court was pleased to direct the Court below to take recourse to Section 309(1) of the Cr.P.C., but the learned Court below has not resorted to the said provision and therefore, Mr. Sarkar contended to allow the petition.

5. On the other hand, Ms. N. Das, learned Additional Public Prosecutor, Assam, submits that this is the second bail application filed by the accused without there being any change of circumstance after rejection of the 1<sup>st</sup> petition on 24.08.2023, and the offences are serious in nature and that the learned Court below has already examined 5 witnesses and the witnesses examined have implicated the accused with the offences charged and therefore, Ms. Das contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the scanned copy of the record received from the learned Court below.

7. It appears that the learned Court below after framing of charge against the accused under Section 302 IPC has examined as many as 5 witnesses. Further, it appears that the I.O. has cited 15 witnesses in the charge-sheet.

8. Having considered the submission of learned Advocates of both the parties and also in view of the evidence recorded so far by the learned Trial Court, a prima facie case appears to be made out against the accused and there is no material to show that there is delay in trial before the learned Court below. Besides there appears to be no change of circumstance in favour of the accused after rejection of the first petition on 24.08.2023. And therefore, this Court is of the view that this is not a fit case to the grant the privilege of bail to the accused at this stage and accordingly, the petition stands dismissed.

9. However, the learned Court below is requested to expedite the trial and to conclude the same at an early date.

**Sd/- Robin Phukan**  
**JUDGE**

**Comparing Assistant**