

GAHC010073452024



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

Case No. : Bail Appln./1042/2024

ABHISEKH BARUAH
C/O MRS. JHUMA BARUAH, S/O LATE BINOY BARUAH, R/O VILL-
BIRKUCHI, NARENGI, P.S.-NOONMATI, GUWAHATI-781026, DIST- KAMRUP
(M), ASSAM

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A K DEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19.07.2024

- 1.** Heard Mr. A. K. Dey, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Abhisekh Baruah who has been

detained behind the bars since 09.08.2023 in connection with Sessions Case No. 231/2023 arising out Basistha P. S. Case No. 474/2023, under Section 364(A)/302/201 of the Indian Penal Code.

3. Learned counsel for the petitioner has submitted that in this case the petitioner is facing trial in Sessions Case No. 231/2023 on accusation of committing murder of a 17 year old boy, namely, Nitesh Kumar.

4. Learned counsel for the petitioner has also submitted that though, the charges under Section 364(A)/302/201 of the Indian Penal Code were framed against the present petitioner on 05.11.2023, however, even after lapse of more than 8 months of the same day, not even a single witness has been examined.

5. Learned counsel for the petitioner has also submitted that the case against the prosecution against the present petitioner is based only on circumstantial evidence and there are materials contradictions in the evidence collected against him.

6. Learned counsel for the petitioner has submitted that the petitioner is ready and willing to cooperate in his trial and therefore, he prays for allowing him to go on bail.

7. On the other hand, learned Additional Public Prosecutor has vehemently opposed the grant of bail to the present petitioner on the ground of the serious nature of the offence involved in this case, he submits that the manner in which murder of the deceased was committed in this case is itself goes against the prayer for bail of the present petitioner at this stage.

8. Learned Additional Public Prosecutor also submits that the brutal nature

of the mode of committing offence by the present petitioner also goes against granting of bail to the petitioner at this stage.

9. I have considered the submissions made by learned counsel for both sides and have perused the material available on record.

10. It appeared that the allegation against the present petitioner is that he killed the deceased Nitesh Kumar, by hacking him with a sword, and thereafter, covered the dead body with tree branches and the leaves and returned home and changed his clothes, took a bath, and thereafter, again went to the market and purchased a mobile handset and from that phone he called the father of the deceased and demanded Rs. 7,00,000/- threatening him of dire consequences.

11. It also appears that the application for bail filed by the present petitioner before the Trial Court has been rejected by the Trial Court by its order dated 20.12.2023.

12. Considering the nature and gravity of the offense and the grotesque manner in which the offense was committed, this Court does not wishes to defer itself from the observation made by the Trial Court by rejecting the scale of the present petitioner.

13. However, it is also a matter of concern that since last 8 months after framing of charges, not even a single witness has been examined.

14. The Trial Court shall make all endeavour to examine the listed witness as early as possible.

15. However, considering the nature and gravity of the offence and the manner in which the offence is alleged to have been committed and the

materials available against the petitioner on record, this Court is not inclined to grant bail to the petitioner at this stage.

16. Accordingly, the prayer for bail is rejected.

JUDGE

Comparing Assistant