

GAHC010081352024



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

Case No. : Bail Appln./1183/2024

KIRAN KHAKHALARY
S/O LT. GOPAL KHAKHALARY
VILL- BALACHARA (THEKASU PART-III), P.O. DUDHNOI
P.S. DUDHNOI, DIST. GOALPARA, ASSAM, PIN-783124

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR Z HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 13.05.2024

Heard Mr. Z. Hussain, learned counsel for the petitioner. Also heard Mr. P. Sarma, 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, Kiran Khakhalary who has been languishing in jail hazot in connection with Dudhnai P.S. Case No. 23/2024 (GR No.260/2024) under Section 302 of the Indian

Penal Code.

Case diary is received. Perused the same.

It is submitted by the learned counsel for the petitioner that the petitioner is 71 years old aged person and suffering from various illness. However, on the day of the incident, there was an altercation between the deceased and the present petitioner as he was asked for wine. But no such incident had happened as alleged in the FIR. Further he submits that he is behind the bar since 18.03.2024 and hence considering his length of detention, he may be enlarged on bail.

In this context, learned Additional Public Prosecutor has submitted that there are sufficient incriminating materials against the petitioner in the case diary indicating his direct involvement in the offence. From the post-mortem report also, it is seen that death was homicidal in nature and died due to coma, as a result of severe head injury. The statement made by the witnesses under Section 164 Cr.P.C also revealed that the accused had an intention to kill the deceased and accordingly, he raised objection and submits that the period of detention may not be considered at this stage.

Hearing the submission made by the learned counsel for both sides more particularly, the incriminating materials available in the case diary, I do not find it a fit case to allow the accused petitioner to grant bail at this stage.

Bail application stands rejected.

Return the case diary.

JUDGE

Comparing Assistant