

GAHC010082712024



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

Case No. : Bail Appln./1226/2024

MISPAR ALI SHEIKH @ MISPAR ALI
S/O LATE MOZIBOR RAHMAN
VILL- NEWAJESPUR,
P.S. SUKCHAR,
DIST. SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. M ISLAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

08.05.2024

Heard Mr. M. Islam, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been languishing in jail hazot since 22.03.2024 in connection with South Salmara P. S. Case No.31/2024 (GR Case No.79/2024) under Sections 147/148/143/325/326/307/379 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by Mr. Islam, learned counsel for the petitioner that the accused/petitioner is innocent and no way involved in the alleged offence. Though, it is admitted facts that quarrel took place between the bus conductor i.e the victim and some other commuters. But, he submitted that on the day of the incident, the petitioner was at Hatigaon Chariali, Guwahati for his eye treatment. And, the informant, who was not available in the place of occurrence, entangled the name of the petitioner in the FIR due to some misinformation and without making any inquiry ascertaining the facts. He further submits that the petitioner was arrested on 22.03.2024 and since then, he is behind the bar and thus, the IO got ample opportunity to interrogate the petitioner keeping him in the custody. Accordingly, he prays to enlarge the accused/petitioner on bail and further submits that he is still ready and willing to co-operate with the I. O. of the case, as and when his co-operation will be needed, if the same is granted.

In this context, Mr. Sharma, learned Additional Public Prosecutor has submitted

that, from the Case Dairy; statement of the witnesses as well from the note of the IO regarding bail objection, it is seen that the accused/petitioner is involved in the alleged offence, though he was not directly involved in assaulting the victim, but he instigated others to assault the victim. Accordingly, he raised objection in the prayer made by the learned counsel for the petitioner.

Considering the submissions made by the learned counsels for both sides, I have perused the Case Diary as well as the bail objection note filed by the IO and statement of the witnesses, it is seen that the petitioner was involved in the alleged offence. However, considering the length of detention already undergone by the accused/petitioner, I am of the view that the I.O. has got ample opportunity to interrogate the accused/ petitioner keeping him in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, South Salmara, the accused/petitioner, namely Mispar Ali Sheikh @ Mispar Ali, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Sought Salmara, without prior permission.

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

JUDGE

Comparing Assistant