GAHC010089142024

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

Case No. : AB/1159/2024

NURUL ISLAM
S/O MUNNAF ALI VILL-BALDIAR ALGA
P.O. MUTHAKHOWA, P.S. SOUTH SALMARA,
DIST. DHUBRI, ASSAM, PIN-783323

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. M ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 13.05.2024

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Mr. D. Das, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely, **Nurul Islam,** apprehending his arrest in connection with **South Salmara P.S. Case No.25/2024** registered u/s **147/148/149/436/326/325/307/302/385/427** of the IPC corresponding to **GR No. 67/2024**.

The Case diary, as called for, is placed before the Court.

The case of the prosecution is that on 06.02.2024 at around 12 noon, the accused persons armed with sharp weapons, like dao, degar etc., illegally entered into the house of the informant and that with the intention to kill his brother chased him while he was working in the field. While the brother of the informant tried to run, the accused persons restrained him and gave several blows with dager and caused grievous injuries on his body, resulting which he died.

It is the further case of the prosecution that when two other persons upon seeing the incident tried to stop the accused persons, the accused also assaulted them causing grievous injuries.

Ms. D. Ghosh, learned counsel for the petitioner submits that the petitioner is totally innocent and has been falsely implicated in the offence alleged.

Mr. D. Das, learned Addl. P.P. submits that the statement of the witnesses have been recorded under Section 161 Cr.P.C. by the Investigating Officer. He further submits that it is revealed from the statement of the witnesses that two persons, namely, Billal and Rahim had inflicted dao injuries to the brother of the informant, consequently for which he died. He further submits that the petitioner's presence has also come out from the statement of the witnesses. He further submits that the petitioner is willing to co-operate in the investigation.

I have heard the submissions made at the bar and perused the materials available on record.

It appears that the investigation has substantially progressed. It further appears that though the presence of the petitioner has been identified by the witnesses present, whose statement has also been recorded u/s 161 Cr.P.C. by the I.O., no role has been implicated against the petitioner by the aforesaid

witnesses. It further appears that it was the two other accused persons, namely, Billal and Rahim, who had assaulted the deceased with dangerous weapons, causing his death.

Considering the totality of the matter, this Court is of the view that custodial interrogation of the petitioner may not be justified for the ongoing investigation.

Accordingly, it is provided that in the event of arrest, the petitioner, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 50,000/-** with one local surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioner shall appear before the Investigating Officer within 10 days, failing which on and from the 11th day, this pre-arrest bail order shall have no force; and

(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 Police Officer or the Court; and

(iii) That the petitioner shall refrain from committing any similar offences in future, of which he is suspected of commission.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant