

GAHC010097202024



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

Case No. : Bail Appln./1388/2024

UNUSH ALI ALIAS MD. UNUSH ALI
S/O- LATE RAFIUL ALI,
VILL- BAMUNBARI (ALIKASH),
P.S- HAJO, DIST-KAMRUP , ASSAM

VERSUS

THE STATE OF ASSAM
REP BY PP. ASSAM

Advocate for the Petitioner : MD KHALILUR RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 28.05.2024

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Heard Mr. N. Islam learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State and Mr. S.H. Sikdar, learned counsel for the respondent No.2.

2. This is an application filed under **Section 439 Cr.P.C.**, seeking bail by the petitioner, namely, **Unush Ali @ Md. Unush Ali**, in connection with **Hajo P.S. Case No. 118/2024 (corresponding to G.R. Case No. 293/2024)**, registered under **Section 498(A)/326/307/384 IPC r/w Section 3/4 of Dowry Prohibition Act.**

3. It is submitted by the learned counsel for the petitioner that the petitioner has been detained in custody for last 43 days since his arrest on 15.04.2024. Considering the length of detention as well as the nature of the offence, bail may be granted to the petitioner.

4. On the other hand, Mr. Baruah, learned Additional Public Prosecutor for the State has produced the case diary and submits that there is sufficient incriminating materials against the petitioner in the case diary. As per medical report, the victim has been physically tortured by the petitioner. There is also demand of dowry as per FIR. Considering the nature of offence, bail may not be considered to the petitioner at this stage.

5. Mr. Sikdar, learned counsel for the respondent No. 2 has also filed objection in granting bail to the petitioner stating that the petitioner used to torture the victim on demand of dowry articles. On the day of the incident, the petitioner assaulted the victim mercilessly for which she sustained grievous injuries on her person. It is further submitted that the petitioner is a police personnel and if he is released on bail, there is every chance of hampering in the investigation and tempering with the evidence of the witnesses. Therefore, he has prayed for dismissal of bail application.

6. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary as well as the medical report.

7. It appears that the victim was assaulted by the petitioner as a result of which she sustained grievous injuries on her person which caused dislocation and the victim also sustained injuries on other parts of her body but the photographs show that the victim sustained injuries on her buttocks which is not the vital part of the body. The injuries sustained by the victim will not come under the purview of Section 326/307 IPC. However, case diary reveals demand of money by the petitioner and as the victim failed to meet the demand of the petitioner, she has been brutally assaulted. It is also to be noticed that the petitioner being police officer, there is every possibility of hampering in the investigation, that cannot be overlooked. Under such backdrop, this Court is not inclined to grant bail to the petitioner. Hence, prayer for bail is rejected.

8. The bail application stands disposed of accordingly.

9. Return the case diary.

JUDGE

Comparing Assistant