

GAHC010098652024



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

Case No. : Bail Appln./1425/2024

SAIDUR RAHMAN
S/O JABBAR ALI
VILL- OJAGAON, NO. 1 MAGURMARI
P.S. DHULA
DIST. DARRANG, ASSAM

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**

31.05.2024

Heard Mr. Z. Hussain, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail to the accused/ petitioner who has been languishing in jail since 25.02.2023 in connection with Sessions Case No. 109/2023, arising out of Jalukbari P. S. Case No.219/2022, under Sections 396 of IPC added Sections 460/392/302 of the Indian Penal Code, pending before the Court of learned Additional Sessions Judge No. 2, Kamrup (Metro) at Guwahati.

Scanned copy of the LCR along with the Case Diary has been received. Perused the same. Heard both sides.

Mr. Hussain, learned counsel for the petitioner has submitted that the accused/petitioner is behind the bar since 25.02.2023 and hence, considering his length of detention, he may be enlarged on bail. More so, in the F.I.R., his name is also not mentioned and no witnesses also took his name in the involvement of the alleged offence. The case is at the stage of evidence and 5 (five) numbers of witnesses are already being examined and there are several other witnesses and hence, considering his length of detention, he may be enlarged on bail. He, being the local resident of his addressed locality, there is

no chance of absconding if he is enlarged on bail and he will appear before the learned Court below on each and every date.

In this context, Ms. Jahan, learned Additional Public Prosecutor, has submitted that the case is progressing and already 5 (five) numbers of witnesses are being examined by the learned Court below, though some vital witnesses are yet to be examined, specially the police officer. So, the further evidences of the other witnesses as well as the investigating officer is very much essential and at this stage, if the accused is allowed to go on bail, there is every chance of absconding or tampering with the witnesses. Thus, the learned Additional Public Prosecutor vehemently objected in allowing the accused/petitioner to go on bail.

Having heard the submissions made by the learned counsels for both sides, I have perused the record and the Case Diary and it is seen that it is a fact that 5 (five) numbers of witnesses, who are already been examined by the learned Court below, did not utter the name of the present accused/petitioner and the incident took place in the night when the victim was alone in his home. Further it is seen that the deceased was brutally murdered by the miscreants and considering the entire circumstances of this case, the plea of absconding cannot be denied at this stage. More so, the finger print of the present accused/petitioner was also recovered during the investigation by police.

Accordingly, considering all above aspects of the case viz-a-viz the nature of offence, I do not find it appropriate to allow the accused/petitioner to go on bail only considering the length of detention and therefore, I find it not a fit

case to extend the privilege of bail to the accused/petitioner and accordingly, the same stands rejected. However, the learned Trial Court is hereby directed to expedite the Trial of the Case.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant