

GAHC010099522024



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

Case No. : Bail Appln./1431/2024

MOTIYOR RAHMAN @ MOTIAR RAHMAN
S/O LT. FOYZUDDIN SK.
VILL- SAGUNMARI PT.IV,
P.S. BILASIPARA,
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR R A AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

10.06.2024

1. Heard learned counsel Mr. M. Ahmed for the petitioner, Motiyor Rahman.

2. This application has been filed by the petitioner under Section 439 of the Cr.PC with prayer for bail as he is behind bars since 03.05.2024 in connection with Bilasipara P.S. Case No. 109/2024 under Sections 120(B)/302/325/34 of the IPC.
3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State and learned counsel Mr. M. Hussain for the informant.
4. The learned counsel for the informant has raised serious objection stating that the petitioner and his co-accused are deeply involved in this incident and they have already admitted about the prevailing animosity between them.
5. The FIR unfolds that the accused persons named in the FIR including the petitioners surrounded and obstructed Asuruddin Sheikh at Sagunmari Part-IV and assaulted and killed him on 01.05.2024 at about 9 p.m. After killing him, the accused person threw his body into the ditch near the house of the Asuruddin Sheikh.
6. A land dispute was prevalent between the petitioners' and the deceased. The accused including the petitioner have earlier threatened the deceased with dire consequences. This impelled the complainant to lodge an FIR.
7. It is further submitted on behalf of the petitioner that the deceased Asuruddin Sheikh and the daughter-in-law of Fazar Ali had an illicit love affair. When Fazar Ali (uncle of informant) learnt about the affair, then a meeting was called regarding their illicit relation at Fazar Ali's house where

the deceased was beaten went to the mama bazaar for some medicines and returned back at night. Thereafter, he was sleeping but suddenly, he was missing at night and next morning, he was found death near the ditch.

8. I have considered the submissions at the Bar with circumspection.

9. I have scrutinized the Case Diary.

10. There is no doubt that strong suspicion exists against the petitioner due to the land dispute between the petitioner and the deceased.

11. I have considered the progress of the investigation.

12. It appears that further custodial detention may not be required for progress of investigation.

13. I have considered the submissions that the petitioner is willing to co-operate with the remaining part of the investigation and that the petitioner is willing to abide by any stringent condition, if imposed upon him.

14. The petitioner is a local resident and is not a flight risk.

15. In view of my foregoing discussions, petition is allowed.
16. The petitioner shall be enlarged on bail of Rs. 50,000/- (Rs. Fifty Thousand) with a suitable surety of like amount to the satisfaction of the SDJM(M), Bilasipara under the condition that;
- (i) the petitioner shall not leave the jurisdiction of the Court without prior permission till completion of the investigation.
17. Send back the Case Diary.

JUDGE

Comparing Assistant