

GAHC010118302024



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

Case No. : Bail Appln./1723/2024

SOYNAL HOQUE
S/O PANAR UDDIN
R/O VILL- TAKIMARI, P.O. AND P.S. SUKCHAR,
DIST. SOUTH SALMARA-MANKACHAR, ASSAM, PIN-783128

VERSUS

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

Advocate for the Petitioner : MR. S H ZAMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26-06-2024

Heard Mr. A. Ahmed, learned counsel for the petitioner Soynal Hoque.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure, 1973 with prayer for bail as the petitioner is behind bars since 04.06.2024 in connection with South Salmara Police Station Case No.

109/2024 under Sections 147/148/149/353/325/326/307/365/379 of the Indian Penal Code, 1860 (G.R. No. 265/2024).

3. Heard Mr. D.P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State. The learned Additional Public Prosecutor has raised serious objection stating that Case Diary has been forwarded but the injury report has not been forwarded along with the Case Diary.

4. The allegation is that a mob attacked the informant and dealt a blow with a dao on the informant's head. It is submitted on behalf of the petitioner that two FIRs have been lodged against the petitioner and the co-accused. Earlier the FIR was registered as South Salmara Police Station Case No. 108/2024 and the present FIR was lodged on the same date and was registered as South Salmara Police Station Case No. 109/2024. It is submitted that the cause of action and narrative of both the FIRs are similar except the number of accused have been reduced in the subsequent FIR.

5. The earlier FIR is marked as Annexure-4 of the petition and the concerned FIR is marked as Annexure-1 of the petition. The petitioner was already arrested in connection with the earlier case on 24.05.2024 and he was shown as arrested in connection with the present case. The petitioner has been detained for a prolonged period in connection with the same case against which two FIRs have been lodged. The allegation against the petitioner is that he along with a group of 150 other miscreants attacked the informant and the police staff who were investigating a case relating to smuggling of buffaloes.

6. It is submitted on behalf of the petitioner that he is not involved with the smuggling of buffaloes but he has purchased 4 (Four) buffaloes. Annexure-3 of the petition is the receipt which substantiates that the petitioner has purchased

4(Four) buffaloes.

7. I have considered the submissions at the bar. I have scrutinized the Cased Diary and the statement of the informant. Investigation has progressed to a considerable extent. There are indeed incriminating materials in the Case Diary against the petitioner. It appears that custodial detention may not be required for further progress of investigation. I have considered the submission on behalf of the petitioner that the petitioner is willing to abide by any stringent bail conditions and that he will cooperate with the remaining part of the investigation.

8. Considering all aspects and in view of my foregoing discussions, petition is allowed.

9. The petitioner shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, South Salmara, Mankachar under the conditions that:

The petitioner shall cooperate with the investigation and not leave the jurisdiction of the Court without prior permission, failing which bail order shall stand cancelled.

10. In the above terms, this Bail Application stands disposed of.

11. Send back the Case Diary.

JUDGE

Comparing Assistant