

GAHC010141582024



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

Case No. : Bail Appln./2066/2024

SIMAN BORO
S/O BIREN BORO, R/O NOWAGAON, P.S.-GARCHUK, DIST- KAMRUP,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR F HAQUE, MR A ISLAM, MR N ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI
ORDER

31.07.2024

Heard Mr. N. Islam, learned counsel for the accused petitioner. Also heard Mr. K.K. Parashar, learned Addl. Public Prosecutor for the State respondent.

2. This is an application under Section 483 of Bharatiya Nagarik Suraksha Sanhita,

2023 (BNSS), for granting of regular bail to the accused petitioner namely, Siman Boro, who was arrested on 09.06.2024 in connection with Garchuk Police Station Case No. 324/2023 corresponding to GR No. 8889/2023 registered under Sections 120(B)/467/468/447/427/379 of IPC.

3. The case has been registered on the basis of the FIR lodged by the informant i.e. Sri Dhanraj Parik on 29.11.2023 alleging land encroachment by some miscreants on 11.06.2023 and in connection with the said incident, the accused petitioner was arrested by the Officer of the Garchuk Police Station.

4. Mr. N. Islam, learned counsel for the accused petitioner submits that the petitioner is no way involved in the offence alleged in the FIR and therefore, contended to allow this bail application.

5. On the other hand, Mr. K.K. Parashar, learned Addl. Public Prosecutor has vehemently opposed the bail application and prays for dismissal of the bail application. He further submits that the main accused Mr. Mintu Rabha and Mr. Anil Musahary since have not been apprehended till date, the custodial detention of the accused petitioner is necessary for the ongoing investigation.

6. I have heard the learned counsels for the parties and I have perused the materials available on record.

7. It appears that the accused was arrested on 09.06.2024 and he was last interrogated on 08.06.2024 i.e. one day before such arrest and since then, he has not been interrogated till date.

8. It further appears that the accused petitioner is behind the bar for the last 52 days.

9. It further appears that the accused petitioner is not named in the said FIR.

10. Pertinent that one of the named co-accused i.e. Mainul Haque is already allowed to go on bail by this Court by Order dated 22.12.2023.

11. Non appearance of the other two named accused present in the FIR cannot be the sole ground to deny bail to the petitioner who is languishing in Jail since last 52 days, that to, when his name is not mentioned in the FIR.

12. Accordingly, this Court of the considered view that further custodial detention perhaps is not justified for the ongoing investigation.

13. As such, this Court is inclined to grant bail to the accused petitioner named above.

14. Hence, it is directed that the accused petitioner namely, Siman Boro shall be released on bail on furnishing bail bond of Rs. 50,000/- (Rupees Fifty thousand) with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) subject to the following conditions:-

- 1) The accused petitioner shall cooperate with the Investigating Officer as and when required;
- 2) The accused 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
- 3) The accused petitioner shall refrain from such activities with which he is alleged, failing which, the bail order shall stand cancelled.

15. The bail application stands disposed of.

JUDGE

Comparing Assistant