

GAHC010166152024



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

**Case No. : Bail Appln./2465/2024**

AFLAJUR RAHMAN @ ABZALUR RAHMAN  
S/O LATE BARKAT ALI, R/O NAGATILLA, SONAI ROAD, SILCHAR, DIST-  
CACHAR, ASSAM. P/R/O VILL- FULPUR, P.S.-FAKIRGANJ, DIST- DHUBRI  
(ASSAM)

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : MR H R A CHOUDHURY, MR. I U CHOWDHURY

**Advocate for the Respondent** : PP, ASSAM, MR. A M KHAN(VICTIM),MR S PRODHANI  
(VICTIM)

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**Date : 09.09.2024**

**1.** Heard Mr. H. R. A. Choudhury, learned senior counsel assisted by Mr. A. Ahmed, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State and Mr. A. M. Khan, learned counsel for the victim (sister of the deceased).

**2.** This application under Section 483 of the BNSS, 2023 has been filed by the petitioners, namely, *Afjalur Rahman @ Abzalur Rahman*, who has been detained behind the bars since 31.03.2024 in connection with Session Case No. 121/2024 arising out of Silchar P.S. Case No. 280/2024 under sections 326/302 of the Indian Penal Code.

**3.** The learned senior counsel for the petitioner has submitted that the petitioner is facing a criminal trial in Session Case No. 121/2024 arising out of Silchar P.S. Case No. 280/2024 which is pending before the Court of learned Sessions Judge, Cachar, Silchar. It is submitted by the learned senior counsel that the criminal prosecution in this case was initiated on filing of an appeal by one Ashad Ahmad Choudhury on 30.03.2024 wherein it was alleged that the petitioner had stabbed his wife and as a result of which the wife sustained severe injuries and later on she succumbed to her injuries in Silchar Medical College and Hospital.

**4.** The learned senior counsel for the petitioner has submitted that the petitioner has been detained behind the bars since last 162 days and there are 25 listed witnesses in the charge-sheet out of which only two have been examined till now.

**5.** The learned senior counsel submits that the petitioner submits that the trial is unlikely to conclude at the earliest as there are 23 listed witnesses yet to be examined. He submits that the petitioner is ready to face trial and shall cooperate in his trial and is ready to abide by any condition imposed while granting his bail and therefore, he prays for allowing the petitioner to go on bail.

**6.** On the other hand, Mr. B. Sarma, Additional Public Prosecutor has

opposed the grant of bail of the petitioner on the grounds that the offence involved in this case is heinous in nature. He also submits that two of the eye witnesses, who are the children of the present petitioner, are yet to be examined and there is every likelihood that if the petitioner is released on bail at this stage, he may influence the said witnesses.

**7.** Mr. A. M. Khan, learned counsel for the victim (sister of the deceased) has also opposed the prayer for bail on the same ground.

**8.** I have considered the submissions made by the learned counsel for both the sides.

**9.** It appears from record that though the charges were framed on 19.07.2024 and the recording of evidence of prosecution witnesses has started, however, only two witnesses have been examined, namely, the complainant as well as one Jaruk Ahmed Choudhury, who are listed as prosecution witness Nos. 1 and 2 in the charge-sheet.

**10.** It appears from the charge-sheet that the eye witnesses, namely, Farhan Kaif Rahman and Afrin Kaif Rahman who are the son and daughter of the petitioner are listed as prosecution witness No. 10 and 11 in the charge-sheet and they are yet to be examined.

**11.** Considering the relationship of the eye witnesses with the present petitioner, this Court is of considered opinion that unless both the eye witnesses, namely, Farhan Kaif Rahman and Afrin Kaif Rahman are examined by the prosecution side, it may not be proper to release the petitioner on bail as there would always be a probability of influencing his children in his favour. Therefore, this Court is not inclined to grant bail to the petitioner at this stage.

**12.** However, considering the fact that both the eye witnesses are listed as Witness Nos. 10 and 11 in the charge-sheet, the Trial Court is directed not to go as per *seriatim* of the list of PWs in examining the prosecution witnesses instead every endeavour should be made by the Trial Court to examine the eye witnesses at the earliest i.e., as the next witnesses to be examined. After examination of the said eyewitnesses, the petitioner may approach the Trial Court for seeking bail by filing an application for bail, if so advised. If such an application is filed, the said application may be considered by the Trial Court as per law.

**13.** Accordingly, this bail application is disposed of.

**JUDGE**

**Comparing Assistant**