

GAHC010211072024



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

Case No. : Bail Appln. No. 3061/2024

UMESH KUMAR PRASAD @ SURAJ PRASAD
S/O UTTAM KUMAR PRASAD, R/O VILL- NEW BONGAIGAON, B.G.
COLONY, RLY Q/NO. 39(B), P.S.-BONGAIGAON, DIST- BONGAIGAON,
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B. K. MAHAJAN, MR. A CHAUDHURY, MR. D BORA,
Advocate for the Respondent : MR. D. DAS, ADDL. PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 08-10-2024

Heard Mr. B. K. Mahajan, learned counsel appearing for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondents.

This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for granting bail to the petitioner, namely, Umesh Kumar Prasad @ Suraj Prasad, who was arrested on 27.08.2024 in connection with Bongaigaon Police Station Case No. 290/2024, registered under Section 61(2)

(a)/109(2)/118(2)/117(2)/331(3) of the BNSS, 2023 read with Section 25(1-A)/27/35 of the Arms Act.

The case of the prosecution is that on 25.08.2024, the informant lodged an FIR alleging *inter alia* that on 24.08.2024, at about 11:00 PM the accused persons named in the FIR entered into the boundary of the informant's house with fire arms and opened blank fire.

It is the further allegation of the informant that thereafter, when the father of the informant came out, a Scorpio vehicle came towards him in high speed in order to kill him. It is also alleged in the FIR that the accused No. 1, namely, Prasenjit Banarjee was apprehended with pistol and was handed over to the police, however, other accused persons had fled away.

Accordingly, the FIR was registered.

Mr. Mahajan, learned counsel for the petitioner submits that the petitioner, being present on the spot of the occurrence, was arrested on the basis of suspicion and that the petitioner is totally innocent.

Per contra, Mr. D. Das, learned Additional Public Prosecutor submits that the Case Diary reveals that upon an altercation between the accused No. 1, namely, Prasenjit Banarjee and the informant, Prasenjit Banarjee called his friends, including the petitioner, over telephone and, accordingly, the petitioner went to the place of occurrence.

Heard the learned counsel for the parties and also perused the materials on record, including the Case Diary.

It appears that the petitioner has been languishing in jail for the last 43 days and he was lastly examined on 27.08.2024. It further appears that the investigation has progressed substantially and the statements of the accused petitioner and the

witnesses have already been recorded by the Investigating Officer. It further appears that no adverse antecedent against the petitioner has been collected by the Investigating Officer during the course of the investigation.

In view of the above, this Court is of the considered view that further detention of the petitioner is not necessary for the ongoing investigation. Accordingly, the petitioner is granted bail.

Resultantly, it is provided that the petitioner, named above, shall be released on bail in connection with the above noted case on furnishing bail bond of Rs.25,000/- (Rupees Twenty-Five Thousand) with one surety of like amount, to the satisfaction of the learned Chief Judicial Magistrate, Bongaigaon, subject, of course, to the following conditions:

- i) The petitioner shall co-operate with the investigation;
- ii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Court or to any Police Officer; and
- iii) The petitioner shall refrain from such activities with which he is alleged, failing which, the bail order shall stand cancelled.

With the above observation, this bail application stands allowed and disposed of.

Send back the case diary.

JUDGE

Comparing Assistant