

GAHC010227532024



2024:GAU-AS:12554

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

Case No. : AB/2868/2024

SUNNY KALITA
S/O LATE PROMOD KALITA, CURRENTLY RESIDING AT KAMAKHYA
DHAM, GUWAHATI 781010, PERMANENT RESIDENT OF BUDUCHAR,
GOALPARA, DALGOMA, GOALPARA, ASSAM 783125

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

Advocate for the Petitioner : MR. M MORE, MR. A BORPUZARI, MR. P K SHARMA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

10.12.2024

Heard Mr P K Sharma, learned counsel for the petitioner, Sunny Kalita, who has filed this application under Section 482 of the BNSS, 2023, with prayer for pre-arrest bail, as he is apprehending arrest in connection with Jalukbari PS Case No. 393/2024, under Sections 115(2)/127(3)/132/189(2)/296/3(5)/324(3)/ 324(5)/61(2) of the BNS, 2023.

2. Heard Mr K K Das, learned Additional Public Prosecutor for the State of Assam.

3. The FIR unfolds that on 15.08.2024, while the informant, a Police Officer was discharging his duty at the Police Station, the petitioner and Jitul Bhargav @ Jitul Bhargab Sharma lodged two FIRs, regarding clash between two groups and on the basis of the FIR, a GD Entry No. 21, dated 15.08.2024 was registered and the informant/petitioner was medically examined and they were informed that investigation will proceed on the basis of the FIR, but after some time, the Jitul Bhargav in a pre-planned manner entered into the Police Station along with some miscreants and verbally abused and threatened the second OC, SI Mazibul Islam, in connection with the FIR lodged by the petitioner and insisted on arresting the accused persons named in the FIR lodged by the petitioner. The Police officials in the Police Station assured the petitioner that appropriate steps would be taken against the culprits, but the disturbing situation got escalated and then, the informant along with second OC, Mazibul Islam, ASI Ranjit Singh and other Police personnel came out of the Police Station to control the situation. A lady named Tulu Devi instigated the mob and the mob became more aggressive and started recording videos on their mobile and they also rebuked the Police officials uttering obscene words. The mob also pushed the informant and took him out of the Police Station and started recording videos to defame the informant. This situation was brought under control by ASI Ranjit Singh and some other Police personnel, who were also assaulted in the process. The mob also damaged the front glass of the Police vehicle, bearing Registration No. AS-01-BS-9198.

4. It is submitted on behalf of the petitioners that similarly circumstanced accused have been granted bail by this court vide order dated 02.09.2024, in connection with AB No. 2274/2024 and vide order dated 02.09.2024, in connection with Bail Application No. 2549/2024.
5. It is further submitted that the learned trial Court has also granted bail to the accused Naba Athparia, in connection with this instant case.
6. I have considered the submissions at the Bar with circumspection.
7. Learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioner.
8. I have scrutinized the Case Diary.
9. Indeed, there are incriminating materials in the Case Diary, against the petitioner. However, the petitioner has filed this bail application on subsequent change of circumstances as the petitioner is suffering from chronic bronchitis. Annexure-7 is the medical report dated 19.10.2024, advising the petitioner one month's bed rest.
10. It appears that the medical advice slip can be relied upon.
11. Considering the ailment of the petitioner and considering the submission that the petitioner is willing to abide by any stringent bail conditions, if imposed upon him and to cooperate with the remaining part of investigation, petition is allowed.
12. In the event of his arrest, the petitioner shall be enlarged on bail on furnishing bail

bond of Rs.30,000/- (Rupees Thirty Thousand Only), with a suitable surety of like amount to the satisfaction of the arresting authority, under the conditions that:

- i) the petitioner shall appear before the IO within one week and cooperate with the investigation,
- ii) the petitioner shall appear before the IO on every fortnight, till completion of investigation,
- iii) the petitioner shall not leave the jurisdiction of the Court, without prior written permission, and
- iv) the petitioner shall refrain from such activities with which he is alleged.

12.1. On breach of any of the bail conditions, bail order shall stand automatically cancelled.

13. Anticipatory Bail Application stands disposed of.

14. Send back the Case Diary.

JUDGE

Comparing Assistant