

GAHC010232562024



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

Case No. : Bail Appln./3413/2024

MRINAL DAS @ MINTU
S/O LATE SARBESWAR DAS, R/O VILL- NAHIRA, BILPAR, P.S.-
PALASHBARI, DIST- KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : N NEOG, L BANIK

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 09.12.2024

- 1.** Heard Mr. R. R. Baishya, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.
- 2.** This application under Section 483 of the BNSS, 2023 has been filed by the petitioner, namely, *Mrinal Das @ Mintu* who has been detained behind the bars since 26.09.2024 (for last 75 days) in connection with Palashbari P.S. Case

No. 293/2024 under Section 103(1) of the BNS, 2023.

3. The gist of accusation in this case is that on 14.08.2024, one Sabitri Das had lodged an FIR that on 10.08.2024 at about 10:30 PM, she made telephonic call to her son Tiken Das (*deceased*) during which she came to know on that day, one Mrinal Das @ Mintu (*present petitioner*) had slapped him and he was accompanied by two to three persons. Thereafter, at about 11:00 PM, the informant again called her son over phone and she was informed that her son (Tiken Das) has reached home. However, during the conversation on the other end stopped. It is further alleged in the FIR that on the next day morning at about 5:00 PM, some villagers informed the informant that her son has been killed. On this, the informant and her other son rushed to the spot and saw that her son has been killed by assaulting him with rod repeatedly. On receipt of the said FIR, Palashbari P.S. Case No. 293/2024 was registered.

4. The learned counsel for the petitioner has submitted that the petitioner has been arrested merely on the basis of suspicion as he had an altercation with the deceased on the day of incident. However, he submits that apart from the allegation that the petitioner slapped the deceased on the date of incident, there is no other material on record to indicate the present petitioner was involved in the offence alleged in the FIR. He also submits that the petitioner has been detained behind the bars for last 75 days and considering the long period of detention, he may be allowed to go on bail.

5. On the other hand, the learned Additional Public Prosecutor has produced the case diary of Palashbari P.S. Case No. 293/2024, which was requisitioned in connection with this case. He submits that the Investigating Officer has recorded the statement of witnesses and collected the post-mortem

examination report. He also submits that from the materials collected by the Investigating Officer till date, there is clear indication that the petitioner had an altercation with the deceased on the date of alleged incident and, hence, there is a strong suspicion regarding his involvement in the offence alleged.

6. I have considered the submissions made by the learned counsel for both the sides and have perused the materials on record including the case diary of Palashbari Case No. 293/2024.

7. Though, it appears that there are materials on record to suggest that on the day of alleged incident at about 10:30 PM, the petitioner had slapped the deceased in front of the shop of one Batalu @ Pranab Kumar. However, apart from that there is no other material to connect the petitioner to the alleged incident. The suspicion, howsoever strong, cannot take place of the evidence and at this stage of the investigation, there may be a strong suspicion against the petitioner, however, nothing beyond that.

8. Moreover, in light of the fact that the petitioner has already been detained behind the bars for last 75 days, this Court is of considered opinion that if the petitioner cooperates in the investigation with the Investigating Officer, his custodial detention may not be necessary for fair completion of investigation in Palashbari P.S. Case No. 293/2024.

9. In view of above, the petitioner, namely, Mrinal Das @ Mintu is hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one surety of like amount subject to the satisfaction of learned Chief Judicial Magistrate, Kamrup, Amingaon, with following conditions:-

- (i) That the petitioner shall co-operate in the investigation;

(ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

10. With above observation, this bail application is disposed of.

11. Send back the case diary.

JUDGE

Comparing Assistant