

GAHC010233292023



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

Case No. : Bail Appln./3697/2023

UCHAMAN ALI
S/O SURUJ ALI @ SURJ MIYA
VILL- ATAKATA
P.S. DHULA
DIST. DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A S TAPADER

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 03.04.2024

Heard Mr. A. S. Tapader, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, praying for grant of bail to the accused/petitioner, who has been arrested in connection with Sessions Case No. 127/2023, pending before the Court of learned District & Sessions Judge, Morigaon, Assam, arising out of Bhuragaon P.S. Case No. 58/2023, under Sections 448/376 /511 of the Indian Penal Code.

As per Order dated 01.04.2024, the learned counsel for the petitioner has filed an additional affidavit and brought on record the orders passed by the learned Court below since 24.07.2023 from the date of framing of charge till 27.03.2024.

It is submitted by Mr. A. S. Tapader, learned counsel for the petitioner, that the petitioner is behind the bar since 11.05.2023 from his date of arrest and in spite of several summons issued against the victim/P.Ws., the prosecution could not examine any witness till date. Further he submitted that from the F.I.R. itself, it is seen that there was only an attempt of rape. Rather he is a victim of this case as he sustained injury on his private parts. Further he submitted that

the accused/ petitioner is a permanent resident of his addressed locality and will appear on each and every date to be fixed by the learned Court below if he is granted with the privilege of bail.

In this context, Mr. Das, learned Additional Public Prosecutor, has submitted that the charge was framed on 24.07.2023 and since then, the case has been listed for evidence. However, vide order dated 04.10.2023, the learned Sessions Judge rejected his bail prayer with the observation that his bail prayer may be considered only after the examination of the victim/material witness of the prosecution. But, till date, even after lapse of almost 1 (one) year, the prosecution could not produce any of the witness or the victim/material witness of the prosecution and accordingly he submitted that considering his length of detention, his bail prayer may be considered.

After hearing the submissions made by the learned counsels for both sides and also considering the entire facts and circumstances of this case, it is seen that the prosecution could not produce any of the witnesses even after the lapse of almost 1 (one) year of framing of charge. Thus, considering this aspect of the case as well as the length of detention already undergone by the accused/petitioner, I find that further custodial interrogation of the accused/petitioner seems to be not necessary here in this case and accordingly I find it a fit case to extend the privilege of bail to the accused/petitioner.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the

satisfaction of the learned District & Sessions Judge, Morigaon, the accused/petitioner, namely, Uchaman Ali, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall appear before the learned Court below as and when the date is fixed;
- (ii) that the 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 Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned District & Sessions Judge, Morigaon, without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant