

GAHC010251212024



2024:GAU-AS:12424

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

Case No. : Bail Appln./3634/2024

RAMJAN ALI
S/O AKESH ALI
VILL- 2 NO. KACHUTOLI
P.S. SONAPUR
DIST. KAMRUP (METRO), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY, MR. M ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 09.12.2024

Heard Mr. N. Uddin, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 483 of BNSS, 2023 praying for grant of bail to the accused/petitioner, who has been arrested in connection with Sonapur P.S. Case No. 191/2024, under Sections 191(2)/191(3)/149/121(2)/132/117(2)/118(2)/ 109/324 (4)/61(2)/125/324(5) of BNS, 2023 *read with* Sections 3/4 of Prevention of Damage to Public Property Act, 1984.

3. Case Diary has been received. Perused the same. Heard both sides.

4. It is submitted by Mr. Uddin, learned counsel for the petitioner, that the present accused/petitioner is innocent and he has not committed the offence alleged in the F.I.R. On the day of incident, while he was returning to his home, he was informed by someone that the people from Administration, along with the police personnel, had come in their area for eviction of the villagers alleging that they have encroached upon the government land, and when he reached the spot, police personnel arrested him. He further submitted that though there was retaliation from the villagers' side and as a result of which, the police personnel, who were along with the eviction team, had started firing and for which, some of the villagers also sustained bullet injuries, however the present accused/petitioner was not involved in the said incident. Mr. Uddin further submitted that though the case is registered under Sections 191(2)/191(3)/149/121(2)/132/117(2)/118(2)/109/324(4)/61(2)/125/324(5) of BNS, 2023 *read with* Sections 3/4 of Prevention of Damage to Public Property Act, 1984, but the said Sections do not attract against the present petitioner. There are no ingredients that the present petitioner was waging war against the State, as alleged in the F.I.R. However, it is a fact that there was a dispute

between 2 (two) groups, i.e. the villagers, who were alleged to have been encroached over the government land, and the eviction team, but the villagers sustained severe injuries due to the firing by the police personnel and some of them also sustained bullet injuries. He also submitted that the present accused/petitioner is behind the bar for last 81 days and hence, considering his length of detention, he may be enlarged on bail. More so, the I.O. got sufficient time for his custodial interrogation keeping him in custody and hence, his further custodial interrogation may not be necessary for the interest of the investigation. He further submitted that the other co-accused persons are already been granted bail by this Court and hence, on the ground of parity also, the present accused/petitioner may be enlarged on bail.

5. Mr. Baruah, learned Additional Public Prosecutor, submitted in this regard that a conspiracy was made by the villagers at the instigation of other people and they came armed with weapons like dao, lathi including other sharp object to drive out the eviction team from the place and for which, the police personnel also had to take shelter on the other side of the railway track and also some of the other police personnel as well as the eviction team also had to hide themselves to save their life. More so, many of the police personnel sustained injuries including lacerated and sharp cut injuries and even one police officer also sustained bullet injuries in the said incident. Mr. Baruah further submitted that as the petitioner, along with others, made a conspiracy and they staged war against the Administration, who came for eviction of the petitioners along with others from their unauthorized occupancy, and hence, there are sufficient materials to attract Section 149/121(2)/61(2) of BNS and accordingly, he submitted that the further custodial interrogation of the present accused/petitioner may be required for the interest of investigation. More so, he

submitted that the some injury report are yet to be collected from the GMCH and considering the nature of offence, he raised objection in granting bail to the accused/petitioner.

6. After hearing the submissions made by the learned counsels for both sides, I have also perused the Case Diary and it is seen that the I.O. has collected sufficient incriminating materials against the present petitioner during investigation. It is also a fact that some of the police personnel sustained injuries including sharp cut injury and lacerated and one of the police personnel also sustained bullet injury. However, in the same time, it also cannot be denied that some of the persons from the petitioner side/villagers also sustained bullet injuries at the time of incident. It is also reveal from the Case Diary that on the day of incident, there was a huge gathering of people and they armed with the weapon to deter the public servant and the police personnel who accompanied the eviction team and they retaliated the police personnel and the other persons from the Administrative at the time of eviction. But, considering the length of detention already undergone by the present accused/ petitioner, I find that the I.O. got sufficient time for his custodial interrogation and hence, further custodial interrogation of the present petitioner may not be required for the interest of the investigation. Thus, considering all these aspects of the case, without going by the merit of the case and only considering the period of detention already undergone by the accused/petitioner I find it a fit case to extend the privilege of bail to the accused/petitioner.

7. 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 Chief Judicial Magistrate, Kamrup(M), Guwahati, the accused/petitioner, namely, Ramjan Ali, be enlarged on bail, subject to the following conditions:

- (i) that the petitioner shall make themselves available for interrogation by the Investigating Officer as and when called for;
- (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 Chief Judicial Magistrate, Kamrup(M), Guwahati, without prior permission.

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

9. Send back the Case Diary.

JUDGE

Comparing Assistant