

GAHC010253312024



2024:GAU-AS:13049

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

Case No. : AB/3120/2024

NUR MOHAMMAD
S/O JONAB ALI,
RESIDENT OF VILLAGE KHARUBHAJ, PO RAJMITA, PS LAKHIPUR, DIST
GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. N ISLAM, MR. M I HUSSAIN, R KHA, N. UDDIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

19.12.2024

1. Heard Mr. H.R.A. Choudhury, learned Senior Counsel for the petitioner Nur Mohammad.
2. The petitioner has filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as he is

apprehending arrest in connection with Lakhipur P.S. Case No. 187/2024 under Sections 331(1)/118(2)/3(5) of the BNS.

3. Heard Mr. K. K. Das, learned Additional Public Prosecutor, Assam for the respondent State.

4. Learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioner. Petitioner has inflicted grievous injury on the victims.

5. It is submitted on behalf of the petitioner that petitioner deserves bail on the ground of parity as the co-accused have already been enlarged on bail. All the family members have been implicated in a blanket manner. The victim has sustained one injury and all the accused named in the FIR could not inflict one single blow causing the grievous injury. The change in circumstance in which the subsequent bail petition is filed is that, earlier, the Misc.case No. 709/2024 dated 18.07.2024, was not filed by the petitioner's son while praying for bail as he was not in possession of the details of the Misc.case. The aforesaid Misc.case discloses the innocence of the petitioner. The petitioner and the informant's husband are cousins. A misunderstanding led to a scuffle between both the parties. The petitioner's cow damaged the paddy of the informant in the informants' field and this led to the scuffle. It is further submitted that the petitioner is suffering from Lumber Spondylitis Sciatika. The Misc.case is marked as Annexure-3, and Annexure-4; and Annexure-5 are the medical documents of the petitioner.

6. The FIR unfolds that the petitioner's cow destroyed the paddy in the informant's paddy field on 14.07.2024, at about 5 a.m. The petitioner with the other co-accused trespassed into the informant's house while the informant's

husband was sleeping. They asked the informant's husband to come out of the house on the pretext of having some discussions and when the informant's husband went out, the petitioner no. 1 dealt a blow on his head with a sharp weapon causing grievous injuries on the head of the injured person. The medico-legal report reveals that the injured person Atowar Ali, has sustained grievous injuries on his head and had to sustain 8 stitches. Undisplaced linear fracture of Oxipetal bone was detected.

7. I have considered the submissions at the Bar with circumspection. I have also scrutinized the Case Diary and the medico legal report. The victim has suffered grievous injury on his head, which is a vital part of his body.

8. At this juncture, considering the facts and circumstances of this case, I am constrained to reject the bail petition, as there appears to be no justified ground to extend the privilege of Anticipatory bail to the petitioner.

9. The pre-arrest bail prayer of the petitioner stands rejected.

Send back the Case Diary.

JUDGE

Comparing Assistant