

GAHC010256772023



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

Case No. : I.A.(Crl.)/1108/2023

RAJU CHOUHAN
S/O SRI CHANDRADEO CHOUHAN, VILL.- LENGRI BORI, P.S.-
BHURAGAON, DIST.- MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY P.P., ASSAM.

2:SUDARSHAN CHOUHAN
S/O SRI BISWANATH CHOUHAN

VILL.- LENGRI BORI
P.S.- BHURAGAON
DIST.- MORIGAON
ASSAM
PIN- 782121

Advocate for the Petitioner : MR. B K MAHAJAN

Advocate for the Respondent : PP, ASSAM

Linked Case : Crl.A./418/2023

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S/O SRI CHANDRADEO CHOUHAN

VILL.- LENGRI BORI

P.S.- BHURAGAON
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Advocate for : MR. B K MAHAJAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

01.03.2024

Heard Mr. N Mahajan, learned counsel for the applicant. Also heard Mr. DP Goswami, learned Additional Public Prosecutor, Assam for the State respondents.

2. This is an application under Section 389(3) Cr.P.C. praying for granting bail to the applicant, namely, Raju Chouhan, by suspending sentence passed vide judgment and order dated 13.10.2023 by the learned Sessions Judge, Morigaon in Sessions Case No. 87/2016, whereby the applicant was convicted under Section 304 Part II IPC and sentenced him to undergo rigorous imprisonment for 5(five)

years with fine of Rs.20,000/- and in default SI for six months.

3. The learned counsel for the applicant submits that all the witnesses examined in the case have stated that the injury sustained by the victim was caused in the arms by using dao. But the medical report reveals that the injuries sustained by the victim were simple injury which falls at best under Section 324 IPC, where punishment is three years only. It is further submitted that the accused is in custody since the date of judgment i.e. 13.10.2023. Though charge-sheet has been submitted against the applicant under Section 302 IPC, but as per the post mortem report, the medical officer opined that the cause of death of the deceased was due to syncope followed by cardiac temponade caused by blunt force impact. However, the victim did not sustain any injury on the chest. It is also submitted that there are lots of contradictions in the evidence of the witnesses and there is every possibility of acquittal of the applicant in the case. Considering these aspects, the applicant be released on bail during pendency of the connected appeal.

4. On the other hand, Mr. DP Goswami, learned Additional Public prosecutor submits that as per medical report, the deceased sustained simple injuries on his right hand and the injuries were simple in nature, and, therefore, bail may be granted to the applicant during pendency of the appeal.

5. I have considered the submissions made by the learned counsel for the parties.

6. In view of the above, the prayer of the applicant is allowed. Accordingly, it is provided that pending disposal of the connected Criminal Appeal No.418/2023, the operation of the sentence passed vide judgment and order dated 13.10.2023 by the learned Sessions Judge, Morigaon in Sessions Case No. 87/2016 shall remain stayed. The applicant above-named, shall be released on bail of Rs.40,000/- (Rupees Forty Thousand) with one suitable surety of the like amount to the

satisfaction of the learned Sessions Judge, Morigaon.

7. It is further made clear that the learned Sessions Judge, Morigaon shall be at liberty to impose any condition(s) while releasing the applicant on bail.

8. Nothing in this order shall be construed as an expression of opinion on the merits of the pending criminal appeal.

9. In view of the above, the interlocutory application stands disposed of.

JUDGE

Comparing Assistant