

GAHC010259972023



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

Case No. : Bail Appln./4262/2023

BIKI CHETIA
S/O LATE BIREN CHETIA
R/O GOVT. QUARTER, DIBRUGARH POLICE STATION CAMPUS,
P.O., P.S. AND DIST. DIBRUGARH, ASSAM, PIN-786001

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N N UPADHYAYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 14-06-2024

Heard Mr. N.N. Upadhyaya, learned counsel for the petitioner Sri Biki Chetia. Also heard Mr. R.R. Kaushik, learned counsel for the respondent State.

2. The petitioner has filed this application under Section 439 of the Code of Criminal Procedure, 1973 with prayer for bail as he is behind bars since

14.03.2022 in connection with Session Case No. 188/2022, corresponding to G.R. Case No. 413/2022 arising out of Dibrugarh Police Station Case No. 161/2022 under Section 302 of the Indian Penal Code, 1860 (IPC for short) read with Section 27 (1) of the Arms Act, 1959.

3. The petitioner Biki Chetia has prayed for bail on the ground that his personal liberty has been curtailed as he has been languishing in the jail since 14.03.2022 and as trial is dragging on with a leaden feet. It is submitted that this case is based on circumstantial evidence and possibility of conviction appears to be remote and bleak and if the petitioner is acquitted in connection with this case, his incarceration will result in violation of Human Rights. The petitioner is willing to abide by any stringent conditions if imposed upon him in the event he is enlarged on bail. It is further submitted that the petitioner's mother is seriously ailing and he has to attend to his ailing mother as his brother, most of the time, stays out of station.

4. The learned Additional Public Prosecutor has raised serious objection stating that the petitioner is a police personnel and trial may be adversely affected if the petitioner is enlarged on bail. 17 (Seventeen) witnesses are enlisted in the charge sheet as cited witnesses and 10(Ten) witnesses have already been examined. The petitioner's precious right to personal liberty has not been curtailed as trial is progressing at a regular pace.

5. The evidence clearly depicts that the petitioner was last seen with his wife and this is a case of cold blooded murder, reflecting the aggressive nature of the petitioner which will indeed have an impact on the trial.

6. I have considered the submissions at the bar with circumspection.

7. It is true that the petitioner is behind bars since 14.03.2022. It cannot be

denied that trial is indeed taking a longer time, but at the same time it cannot be held that trial is dragging on with a leaden feet. 10 (Ten) witnesses out of 17 (Seventeen) witnesses have already been examined. It cannot be held that the trial has been protracted or procrastinated by the prosecution or by the Court. It appears that trial is proceeding. It cannot be conclusively decided that trial is proceeding at a snail's pace. Moreover, the merits of the case cannot be taken into account at this juncture.

8. After considering the allegations, the evidence and other aspects of the matter, it appears that trial may be adversely affected if the petitioner is enlarged on bail at this stage. Petition with prayer for bail is rejected.

9. However, the petitioner is at liberty to apply for bail on a later date, if trial is procrastinated any further by the Court or by the prosecution. The Trial Court is directed to expedite the trial for the speedy disposal of the case as per Section 309 of the CrPC.

10. In the above terms, this Bail Application stands disposed of.

JUDGE

Comparing Assistant