

GAHC010279782023



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

Case No. : Bail Appln./4525/2023

MONNAF ALI @ MUNNAF ALI
S/O SOMEJ ALI
VILL- LAKHIPUR CHAR
P.S. KACHUMARA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS M BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

22.01.2024

Heard Mr. M. Islam, learned counsel for the accused petitioner. Also heard Mr. D. Das, learned Addl. P.P., Assam appearing for the State respondent.

2. This is an application under Section 439 of the Code of Criminal Procedure,

1973 for granting regular bail to the accused petitioner, namely **Monnaf Ali @Munnaf Ali**, who was arrested on 10.07.2023, in connection with **P.R.C. Case No.2306/2023** arising out of **Kachumara P.S. Case No.23/2023** under Sections **120B/147/148/ 149/448/326/302** of the IPC.

3. The case of the prosecution, in brief, is that on 29.03.2023, at about 10 a.m., while one Hanif Ali was ploughing in his own ancestral land at Lakhipur Char, the F.I.R. named accused No.1, who was trying to take possessions of the said land, came along with 30/40 other persons armed with dangerous weapons. The accused No.1 had asked the Gaonburah, i.e., the informant's brother, to distribute the land and since he did not do so, the accused No.1 along with the remaining accused persons attacked on his neck and head with sharp weapons, for which he got seriously injured and fell down on the ground. The informant was also attacked. Accordingly, a case was registered.

4. Mr. M. Islam, learned counsel for the accused petitioner submits that the petitioner has not committed the offence as alleged in the FIR. He further submits that after completion of investigation of the case the concerned police authorities filed charge-sheet on 31.07.2023 (C.S. No.29/2023 under Sections 120B/147/148/149/448/ 326/302/34 of the IPC) against 11 nos. of accused persons including the present accused petitioner and forwarded the same to the Court of learned C.J.M., Barpeta. He further submits that the case is pending for production of accused. He further submits that there was a land dispute between the deceased and the accused No.1 for long and that the accused petitioner was not present at the place of occurrence.

5. Mr. D. Das, learned Addl. P.P., on the other hand, strongly opposes the prayer for bail. He submits that there are sufficient materials in the case diary which indicate the involvement of the accused petitioner.

6. I have considered the submissions made at the bar and perused the materials available on record including the case diary placed before this Court.

7. It appears from the case diary that the deceased person was allegedly killed by as many as 31 persons. It however appears that the police authorities have submitted the charge-sheet against 11 nos. of accused persons including the petitioner. 7 nos. of accused persons have already got default bail in this case. It is also seen that 3 accused persons are at large and they are shown as absconders in the charge-sheet. The present petitioner has been languishing in jail since last 186 days. It further appears that the statement of the present petitioner has already been recorded under Section 161 Cr.P.C. and in view of his length of detention and considering the fact that the trial of the case is not being able to proceed because of non production of the 3 absconding accused persons, further detention of the accused petitioner is perhaps not necessary.

8. Considering the nature of allegations/length of detention/antecedent of the petitioner, vis-à-vis Article 21 of the Constitution of India, this Court is inclined to grant bail to the accused petitioner.

9. Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand)** with **2(two)** suitable sureties of like amount, one of whom will be a government servant, to the satisfaction of the learned **Addl. C.J.M., Barpeta** subject to the following conditions-

- i) The petitioner shall regularly appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed off;
- ii) The petitioner shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Court;

- iii) The petitioner shall not leave the territorial jurisdiction of the trial Court without prior permission till completion of the trial; and
- iv) The petitioner shall refrain from such activities with which he is alleged, failing which, the bail order shall stand cancelled.

10. The observations made in this order are tentative and for the purpose of disposal of this bail application only and shall not be used for any other purpose including in the trial of the case.

11. The bail application stands disposed off.

JUDGE

Comparing Assistant