

GAHC010287792023



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

Case No. : Bail Appln./4596/2023

MOTIAR RAHMAN
S/O LT. ABDUL JALIL
VILL- CHIRAKUTA PART-II, BETBARI
P.S. CHAPAR
DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

19.01.2024

Heard Mr M A Sheikh, learned counsel for the petitioner, Motiar Rahman.

2. The petitioner has filed this application under Section 439 CrPC, with prayer for bail, as he was forwarded to custody on 18.12.2023, in connection with Bilasipara PS Case No. 417/2023, under Section 25 (1-A) of the Arms Act.

3. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.

4. The FIR unfolds that on 30.10.2023, at about 01:41 pm, on a tip off, the CRPF jointly with the Police conducted a naka checking (checking) on 17 th National Highway at Suryakhata. Two unknown boys were approaching from Beltoli on a motorbike bearing Registration No. AS-16D/9359 of pulsar make, but both the boys fled towards the field to avoid the Police. However, both the boys were apprehended and a 7.65 Baretha pistol with three rounds of live ammunition was recovered and the motorcycle was also seized in connection with this case.

5. It is submitted that the petitioner is willing to abide by any terms and conditions to be imposed upon him, if he is enlarged on bail.

6. The learned Additional Public Prosecutor has raised objection stating that the forwarding report clearly discloses that the petitioner had sustained a bullet injury when he was leading the Investigating Police Team to a place where he had concealed some more arms and live ammunitions. At that time, the petitioner shoved away the police Personnel, escorting him and he tried to escape. The escorting Police Personnel opened blank fire but could not stop the petitioner and he had to aim towards the petitioner's leg and opened fire, resulting in the injuries sustained by the petitioner. The petitioner is a history sheeter and he does not deserve bail, at this juncture.

7. I have considered the submissions at the Bar with circumspection.

8. I have also perused the Case Diary.

9. The seizure list reveals that one Baretha pistol-7.65 with one magazine and three

live ammunitions were seized in connection with this case.

10. The Case Diary reveals that the investigation has progressed to a considerable extent.

11. I have considered the submission that the petitioner has pledged to abide by any bail conditions purported to be imposed upon him.

12. Considering all aspects, petition is allowed. The petitioner is enlarged on bail of Rs. 50,000/- with two local sureties of the like amount to the satisfaction of the learned Elaka Magistrate, under the conditions that:-

i) the petitioner shall refrain from such activities with which he is alleged, and

ii) the petitioner shall appear before the IO after every fortnight and cooperate with the investigation,

iii) the petitioner shall not exercise threats to the witnesses and tamper with the evidence.

On breach of any bail conditions, bail order shall stand cancelled.

13. Bail Application stands disposed of.

14. Send back the Case Diary.

JUDGE

Comparing Assistant