

GAHC010293982023



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

Case No. : Bail Appln./4699/2023

PHILLIPS BORO @ HERAMBO BRO
S/O HAREN CH. BORO
VILL- NOPARA
P.S. HOWLY
DIST. BARPETA, ASSAM
PIN-781316

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR K BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 05-01-2024

Heard Mr. K. Bhuyan, learned counsel for the accused and also heard Mr. R. J. Barua, learned Addl. P.P. for the State respondent.

This application, under Section 439 Cr.P.C. is preferred by accused, Phillips Boro @ Hrambo Boro, who has been languishing in jail hajot since 18.12.2023, in connection with Basistha P.S. Case No. 806/2023, under Sections 333/353/427/34 IPC, for grant of bail.

The above noted case has been registered on the basis of an FIR lodged by UBC Rintu Das of Jorabat Police Outpost, on 18.12.2023.

The essence of allegation, made in the FIR, dated 18.12.2023, is that on the night of 18.12.2023, at about 10 PM he was attending Naka Checking duty at Jorabat Tiniali, then 3/4 persons who were coming from Meghalaya side, attacked him as a result of which he sustained injuries over his forehead and then his colleague have apprehended three persons and one person has managed to flee away from the place of occurrence and the apprehended three persons were taken to police outpost where they have disclosed their name as Kunal Bahadur, Ricky Kharshandi and Philips Boro @ Hrambo Boro.

Mr. Bhuyan, learned counsel for the accused submits that the accused was arrested on 18.12.2023, and since then he has been languishing in jail hajot for last 17 days. Mr. Bhuyan further submits that the accused is innocent and no way involved with the offence alleged in the FIR and in fact he was waiting by the side of the road then he was apprehended by police and taken to the police out post and that he is ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. R. J. Barua, learned Addl. P.P. submits that he has received the case diary, but the injury report of the victim is not available in the same. Mr. Borua further submits that the victim police person has implicated the accused with the offence alleged, and therefore, Mr. Barua has opposed the petition.

Having heard the submission of learned Advocates for both the parties, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P.

It appears that though the case has been registered u/s 333/353/427/34 IPC, yet having gone through the materials collected so far in the case diary, specially the statement of the victim, this Court is of the view that the requisite materials to establish the offence u/s 333 IPC is missing herein this case.

Under the aforesaid facts and circumstances and also considering the period of detention, this Court is inclined to allow this petition. It is provided that on furnishing a bond of Rs.50,000/- with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), the accused be enlarged on bail.

In terms of above, this bail petition stands disposed of.

Case diary be returned.

JUDGE

Comparing Assistant