

GAHC020005912024

2024:GAU-NL:551



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

Case No. : Bail Appln./17/2024

NGUNYUBEINUO
D/O MEDOSELHOU
R/O D-KHEL
KOHIMA NAGALAND

VERSUS

THE STATE OF NAGALAND
NAGALAND KOHIMA

Advocate for the Petitioner : A. ZHO, AJANO,B. SOTO

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 21-10-2024

Heard Mr. A. Zho, learned counsel for the petitioner. I have also heard Mr. Veto V. Zhimomi, learned PP for the State of Nagaland.

2. By filing this application under section 439 of the Code of Criminal

Procedure, 1973 Cr.PC, read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the petitioner is praying for release of the accused, **Khrietsonyu Whuorie**, on bail who has been arrested and is presently lodged under judicial custody in connection with the Kohima North PS case no. 0045/2024 under section 290/352/323/325/304 and 34 IPC.

3. Earlier the petitioner had moved bail application before the learned Sessions Judge, Kohima praying for release of the accused on bail; however, the same was rejected. This is the subsequent bail application seeking release of the accused on bail.

4. The earlier bail application for release of the accused was rejected by the learned Principal District & Sessions Judge, Kohima on 12.09.2024 on the ground that the case is at the stage of Consideration of Charges and the trial would be vitiated if the accused is enlarged on bail at that stage.

5. The learned counsel for the petitioner submits that the accused is innocent in the case and there is nothing on record implicating the alleged accused for commission of the alleged offence. Moreover, the case has already been charge sheeted. And, all the offences charge sheeted against the alleged accused are bailable except for offence under section 304 IPC. He further submits, that since there is no any allegation against the accused implicating him for commission of the alleged offence under section 304 IPC, the accused is likely to be acquitted for the said offence. And as all other offences charged against him are bailable; the accused

may be enlarged on bail.

6. The learned counsel for the petitioner further submits that the accused has been inside the custody for the last 128 days at the time of filing this bail application. And, as the case has already been charge sheeted, there is no scope of the accused influencing the witnesses in the event of his release on bail. The accused is also ready to cooperate with the trial of the case and abide by any bail conditions to be imposed upon him for his release.

7. The learned PP produced the scanned copy of the TCR. While referring to the chargesheet he submits that there is a prima facie case against the accused for commission of the alleged offences. He further submits that the Trial court has already rejected the bail prayer of the accused on the ground that the case is at the stage of Consideration of Charges and the Trial would be vitiated if the bail is allowed at this stage and since then nothing has been changed. He also submits that the learned Trial Court is yet to frame charges against the accused persons and the next date after extension being sought by the accused persons has been fixed on first week of November,2024. Moreover, the petitioner has not taken any new ground for release of the accused on bail in this bail petition, while, his bail prayer on the same ground was also rejected by the Trial court. Hence, vehemently opposed the released of the accused on bail.

8. Heard both the learned counsel for the parties. I have also perused the case record produced.

9. The record reveals that an old man was assaulted on the broad day light in presence of the informant son and others independent witnesses and due to the said assault, the victim succumbed to his injury. The record further reveals that there is an incriminating material against the accused for his involvement in the case along with the A1.

10. It is seen that the petitioner has not taken any new ground for release of the accused, albeit his earlier bail application was rejected on the same ground.

11. Considering the seriousness of the allegation made against the alleged accused and the material found against him on record for commission of the alleged offences, and also considering that the case is at the stage of Consideration of Charges and the learned Trial Court while rejecting the earlier bail application had observed that the trial of the case would be vitiated if the accused is enlarged on bail at this stage, this Court is not inclined to interfere with the Trial of the case at this stage and accordingly, this bail application is rejected.

12. Bail application stands disposed of.

Return the records.

JUDGE

Comparing Assistant