GAHC010228222026

2026:GAU-AS:16696

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

Case No. : Bail Appln./3347/2026

JAHIRUL ISLAM
S/O ABUL SHEIKH, R/O VILL FULKATARI, PO FULKATARI, PS FAKIRGANJ, DIST DHUBRI, ASSAM, PIN 783339

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : R AMIN, MR. M HAQUE,S K RAHMATULLAH

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

12.11.2026

Heard Mr. R. Amin, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor appearing for the State of Assam.

2. This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 whereby the petitioner, namely, Jahirul Islam, has prayed for releasing him on bail after he was arrested on 18.04.2026 in connection with Fakirganj Police Station Case No. 39/2026 registered under Sections 61(2)/329(4)/117(2)/103(1) of Bharatiya Nyaya Sanhita, 2023.

3. Two earlier bail applications being Bail Application No. 1620 of 2026 and Bail Application No. 2262 of 2026 were earlier rejected by this Court by Orders dated 27.07.2026 and 02.09.2026 respectively.

4. The allegation against the petitioner is that the petitioner trespassed into the premises of the informant along with other co- accused and asked him as to why he had not attended the marriage ceremony of his nephew. An altercation thereafter took place between them, during which the petitioner assaulted the informant with hand blows, kicks, etc., and felled him to the ground. The petitioner, along with the other accused persons, also assaulted the son of the informant on his head with a piece of wood with an intention to kill him. As a result of the assault, the son of the informant sustained grievous injuries and became senseless. He was taken to Dhubri Medical College, from where he was referred to GMCH for better treatment. However, instead, he was taken to Coach Behar Hospital, where he succumbed to his injuries. Accordingly, Fakirganj P.S. Case No. 39/2026, under Sections 61(2)/329(4)/117(2)/103(1) of

the BNS, 2023, has been registered against the accused-petitioner.

5. The I.O. has submitted the charge-sheet, wherein two accused persons, namely, Sonwar Hossain and Jahirul Islam, have been implicated.

6. Learned counsel for the petitioner submits that the charge-sheet has been submitted showing the prime accused, Sanwar Hussain as an absconder because of which the trial has not commenced and in the meantime, the petitioner has spent 206 days behind bars and he has two children to take care of and considering the length of detention the prayer for bail may be considered. It is the further submission of learned counsel for the petitioner that as per the arrest memo, the petitioner was arrested on 18.04.2026 at 5:00 PM and though, he was produced before the Magistrate on the next day i.e., 19.04.2026, no time of production is mentioned in the order of remand passed by the learned Magistrate and therefore, it can be presumed that there is no material to show that the petitioner was produced within 24 hours of his arrest. It is also submitted that the notice under Section 47 of BNSS was not furnished to the petitioner two hours prior to his production before the Magistrate as required in view of the decision of the Hon'ble Apex Court in ***Mihir Rajesh Shah vs. State of Maharashtra & Anr***., in ***Criminal Appeal No. 2195 of 2025***.

7. Learned Addl. P.P. submits that the actual time of production may be

ascertainable from the CD, which is not available today along with the scanned copy of the TCR.

8. Upon perusal of the statements of the witnesses available in the TCR, it appears that the minor sister of the deceased as well as the mother of the deceased have implicated co-accused, Sanwar Hussain as the person who inflicted the fatal blow upon the deceased. Therefore, there appears to be some force in the submission of learned counsel that it is the co-accused, Sanwar Hussain, who is the prime accused of this case although, some other witnesses have implicated the present petitioner also along with the aforesaid Sanwar Hussain.

9. Having regard to the above as well as the period of detention, and the fact that the investigation has been completed and there also appears to be less chance of an early trial due to abscondence of the prime accused, the petitioner may be released on bail at this stage.

10. Accordingly, the prayer for bail stands allowed. The petitioner namely, Jahirul Islam shall be released on bail on furnishing a bail bond of Rs. 50,000/- with two (2) sureties of like amount each to the satisfaction of the learned Court below. It is further provided that the petitioner shall cooperate with the trial as and when one commences and shall not try to influence or intimidate the witnesses in any manner.

11. Petition stands allowed and disposed of accordingly.

JUDGE

Comparing Assistant