

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)
ITANAGAR BENCH

Bail Application No. 25 (AP) of 2017

Shri. Sanju Taloh,
s/o Late Tagi Taloh,
Camp:- Pangin Town
P.O./P.S. Pangin
Dist- Siang Arunachal Pradesh
Mobile No. 6436223320

.....**Petitioner**

-Versus-

The State of Arunachal Pradesh
represented through Public Prosecutor

.....**Respondents**

- BEFORE -
HON'BLE MR. JUSTICE S.SERTO

For the Petitioner	:	Mr. T. Tapak, Mr. D. Tali, Mr. T. Pangkeng, Ms. Y. Pangin, Ms. T. Tamut, Mr. N. Pada, Advs.
For the State respondent	:	Ms. M. Tang, Addl. P.P.
For the opposite party	:	Mr. P. Taffo, Mr. L. Lamgu, Mr. J. Ringu, Mr. N. Khete, Advs.
Date of hearing & Hearing	:	23-08-2017

JUDGMENT & ORDER
(Oral)

- 1.** This is the second application filed in this court under section 439 Cr. P.C, 1973, praying for release of the accused on bail who was arrested on 25.06.2017 and remanded to custody since then, in connection with Itanagar P.S Case No. 155/2017, registered under section 302 and section 34 of IPC.
- 2.** Heard Mr. Z. Kamar, learned Sr. counsel assisted by Mr. T. Tapak, learned counsel for the petitioner and also heard Ms. M. Tang, learned Addl. P.P. for the State and also Mr. P. Taffo, learned counsel for the complainant/informant.
- 3.** The brief facts of the case leading to the arrest and remand of the accused to custody are as follows;

In the evening of 23rd of June, 2017, the accused and the deceased Papung Nayu along with some of their friends spend their evening by drinking together in the restaurant called Poong Nest Restaurant at Itanagar. At around 3:00 A.M of 24.05.2017, the accused went to sleep in Room No. 311 of WAI International Hotel which was earlier booked by the deceased for their stay for the night. At around 5:00 A.M. of the same day, the deceased went up to the same room to sleep in a drunken state. Around 7:30 A.M. of 24.06.2017 staff of the hotel found the deceased lying dead on the terrace below the window of the room where he and the accused stayed together. Soon thereafter, the accused was awakened by the staff of the hotel and informed him on what had happened. Thereafter, the accused also went to see the dead body of his friend. The General Manager of the hotel informed the Officer-in-charge, Itanagar Police Station about the incident stating that he suspected that the deceased had fallen from the window of Room No. 311 where he was staying with his friends. Based on the information a UD Case No. 06/2017 was registered under section 174 of Cr. P.C. The accused was also taken to the Police Station and his statement was recorded but thereafter he was allowed to go.

On 25.06.2017, an FIR case was lodged by Shri. Prem Nayu in the same Police Station. Following the complaint, an FIR was registered by Itanagar Police Station and the accused was arrested on the same day. Necessary investigation

on the incident like inquest over the dead body, checking the CCTV footage of WAII International Hotel, post-mortem over the dead body and collection of finger print were done. The accused was produced before the Chief Judicial Magistrate, Yupia, and he was remanded to police custody for two days and thereafter to judicial custody. Since then, he have been in judicial custody till today.

4. The case of the petitioner as submitted by his learned Sr. counsel is that there is no statement made by any of the witnesses nor is there anything to show that the accused and the deceased had any quarrel or enmity against each other which would have prompted the accused to do or commit any act which could have led to the dead of the deceased. In fact, they were close friends and that is the very reason why they enjoy the evening together by drinking in a bar-cum-restaurant and booked the hotel room to spend the night together. According to the learned Sr. counsel the only possible reason which might have led to the dead of the deceased is that since the window of the hotel room is without bars he might have lost his balance and fall while trying to open the same as he was in his drunken state.

The learned Sr. counsel also submitted that at the time when the deceased went to the room the accused who had entered the room earlier was fast asleep till he was awakened at 7:30 A.M. by the hotel of the staff. Therefore, there was no chance of the accused having done or committed any act which could have caused the dead of the deceased. The learned Sr. counsel also submitted that if the accused committed the crime he would not have been in the hotel but the fact that he was soundly sleeping till he was awakened at 7:30 A.M. by the hotel staff shows that there was no indication of any guilt or remorse in him of having committed a murder.

5. The learned Sr. counsel further submitted that the accused is a businessman, and deeply rooted in the society and belonged to a respectable family, therefore, he will not abscond to avoid the investigation or trial of the case when the charge sheet submitted, and he will also not interfere in the investigation by influencing or intimidating the witnesses or anyone involved in the investigation of the case. That the accused has certain medical problems

which, unless, attended to at the earliest may lead to deterioration of his health, therefore, taking all these into consideration this court may be pleased to release him on bail with any condition deem fit.

6. The learned Addl. P.P, Ms. Tang has submitted the latest status of the investigation and CD of the case.

7. Mr. P. Taffo, learned counsel who appears on behalf of the complainant/informant submitted that only on 01.08.2017 a Single Bench of this Court had rejected the bail application of the accused on the ground that there are prima facie circumstantial evidence available against the accused and the investigation is yet to be completed, therefore, by entertaining the second bail application, this court could not have come to a different conclusion at this stage. The learned counsel also submitted that if the accused is released at this stage, investigation of the case would be jeopardized, therefore, the same may be rejected.

8. I have considered the submissions of both the learned counsels, the facts and circumstances of the case, the materials available at hand and contents of the CD. Since, the first bail application was rejected by this court 23 days ago no much improvement has been made in the investigation. However, the I.O has been changed which perhaps is an effort made by the Police to unearth the truth about the whole incident. It is true that no one should be kept in custody even for a day if there is no reason to do so. However, in this case, there is no denying fact that the accused was the last person the deceased was with before his death occurred. Therefore, there is every reason to have suspicion on the accused till the investigation is thoroughly done and it shows otherwise. The accused has been in custody for about 2(two) months, however, the investigation is still yet to be completed. Therefore, I am not inclined to grant bail at this stage.

Hence, the petition is rejected. However, on the plea of the petitioner that the accused is suffering from certain ailment, the Jail authority is directed to produce the accused before the State Medical Board for thorough examination and opinion.

In case, the Board finds that the accused would need to be treated in an hospital outside the Jail, the petitioner can always come back with a fresh petition.

With this, the Bail Application is disposed.

JUDGE

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