

**Misc.(Crl) Case No. 496/2021****ORDER****04-01-2022**

This is an application u/s 439 Cr.P.C. seeking bail for accused Md Fajlur Rahman @ Babul who has been in judicial custody since 12-12-2021 in connection with Jamuguri P.S. Case No. 236/2021 u/s 304 IPC.

I have heard the learned lawyers appearing for both sides and also gone through the contents of the case diary received today.

Learned counsel appearing for the state Sri Munin Baruah objected the bail petition contending inter alia that accused allowed the deceased to dig well knowing it well that the land in which well was dug was vulnerable.

On the other hand, learned counsel appearing for the accused submitted that accused is not an expert. He entrusted the deceased to dig well and deceased himself being the expert in the field undertake the job but unfortunately he died as a result of fall of sand mud. It is further contended that the act of the accused alleged falls u/s 304 (A) IPC instead of Section 304 IPC. So, accused may be released on bail.

Having heard the learned lawyers appearing for both sides and on careful perusal of the contents of the case diary, it appears that the accused being a contractor entrusted the deceased in the job of digging well without taking necessary precaution as a result of which the labour who was engaged in the job died as a result of fall of sand mud over him.

In this case, accused has the previous knowledge in engaging labour in such risky and vulnerable job that mishap may occur if due precaution is not taken. As a result of such act an innocent person has to sacrifice his life.

Therefore, given the nature of the offence, this court is not inclined to grant bail to accused Md Fajlur Rahman @ Babul.

In the result, bail petition stands rejected.

Let the case diary be returned in seal cover.

Accordingly, Misc(Crl.) case disposed of.

Sessions Judge  
Sonitpur, Tezpur.