

GAHC010015222023



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

Case No. : Bail Appln./275/2023

ABDUR RASHID AHMED AND ANR.
S/O LT. FALU MUNSHI
R/O ATAGAON
P.O. MIRAJHAR, P.S. GOBARDHANA
DIST. BAKSA, BTAD, ASSAM

2: SHARIFUL ISLAM @ SARIFUL ISLAM
S/O ABDUR RASHID AHMED
R/O ATAGAON
P.O. MIRAJHAR
P.S. GOBARDHANA
DIST. BAKSA
BTAD
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR J ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 23-01-2023

Heard Mr. J. Islam, learned counsel for the petitioners.

Also heard Mr. K.K. Das, learned Additional Public Prosecutor for the State of Assam.

By this application under section 439 Cr.P.C., the petitioners namely, 1. Abdul Rashid Ahmed & 2. Shariful Islam @ Sariful Islam, are praying for bail, in connection with Gobardhana P.S. Case No. 161/2022, under sections 120(B)/420/406/468 of I.P.C. as the petitioners are languishing in jail hazot since 21.12.2022.

It is submitted by the learned counsel for the petitioner that the accused petitioners are innocent and they have falsely implicated in this case. The petitioners have their own cultivating land and they submitted those documents before the ADO, Baksa, who after verification through Lat Mandals have issued paddy certificate and on the basis of paddy procurement certificate they accordingly sold it under the Government Scheme and thus, they have not committed any offence which can attract section 120(B)/406/420/468 of IPC as against them more so, they are behind the bar since 22.12.2022 and thus I.O got sufficient time for their custodial interrogation. Further, the learned counsel for the accused petitioners have submitted that the prayer for police remand was also rejected by the Court and they are in judicial custody since the date of their arrest and they will co-operate with the further investigation of the case, if they are enlarged on bail.

In this context learned APP has raised serious objection and has submitted that there are sufficient incriminating materials against the accused petitioners in the case diary and the documents which was produced before the concerned authority doesn't match with the Dag and patta No of the present accused

petitioners. More so, they have obtained the certificate for the land which is not in their name or possession. Thus, misappropriated the Government money and sold the paddy under the Government Scheme which was only meant for the poor farmers.

After considering the submission of learned counsels for both sides I have also perused the case diary and it reveals that both the accused petitioners are behind the bar since 21.12.2022 and their prayer for police remand was also rejected by the learned Magistrate and they are in judicial custody since the date of arrest. Sufficient documents has already been collected by the I.O and I.O also get sufficient time to interrogate the accused persons in the custody. Thus considering the length of detention of the accused petitioner, I find that further custodial interrogation may not be necessary in this case. Accordingly, bail prayer of the accused petitioners is allowed.

The accused petitioners namely, 1. Abdul Rashid Ahmed & 2. Shariful Islam @ Sariful Islam are enlarged on bail on furnishing a bail bond of Rs.20,000/- (Rupees Twenty Thousand) each with one suitable surety of like amount each, to the satisfaction of the learned C.J.M. Baksa, Masalpur, in connection with Gobardhana P.S. Case No. 161/2022, under sections 120(B)/420/406/468 of I.P.C.

The bail is granted on the following conditions;

- 1.that the petitioners will refrain from such activities to which they are alleged.
2. that the petitioner will appear before the I.O as and when called for.
3. that the petitioners shall not leave the territorial jurisdiction of jurisdictional Court without prior permission.

4. the petitioners shall not hamper and temper with any evidence associated with the further investigation of the case.

With the above observations, the bail application stands disposed of.

JUDGE

Comparing Assistant