

GAHC010033872023



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

Case No. : AB/497/2023

DEBASHISH SARKAR AND 2 ORS.
S/O BABUL SARKAR
CHRISTIAN PATTY, ADP ROAD, NAGAON, ASSAM- 782001

2: SRI SIRAJUL ISLAM
S/O JAYNAL ABDIN 14

R/O SAJALAL PATH
NEAR MASJID
AZAD NAGAR
P.S. NAGAON SADAR

DIST. NAGAON
ASSAM

PIN- 782003.

3: SRI RANJAN PAUL
S/O SRI AMULYA CHANDRA PAUL
R/O NOONMATI
KAMRUP (METRO)
ASSAM
PIN- 78102

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR. D HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

26.07.2023

Heard Mr. D. Hussain, learned counsel for the petitioners. Also heard Mr. K.K. Das, learned Additional Public Prosecutor, appearing for the State of Assam.

This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the petitioners, namely, 1. Sri Debashish Sarkar, 2. Sri Sirajul Islam and 3. Sri Ranjan Paul, who are apprehending arrest in connection with Geetanagar P.S. Case No. 28/2023 under section 326/307/34/120(B)/294/206 of the Indian Penal Code.

Learned counsel for the petitioners submits that by order dated 21.02.2023, the present petitioners were granted interim anticipatory bail by this Court and they were directed to appear before the Investigating Officer.

Learned counsel for the petitioners submits that accordingly, the petitioners appeared before the Investigating Officer and they have co-operated with the Investigating Officer and hence, prays for making the interim anticipatory bail granted to them as absolute.

Learned counsel for the petitioners has also produced an order passed by co-ordinate bench of this Court in A.B. Case No. 553/2023, whereby one of the named accused in the FIR has been granted absolute anticipatory bail.

On the other hand, learned Additional Public Prosecutor, has produced the case diary of Geetanagar P.S. Case No. 28/2023 before this Court. He also

submits that the present petitioners have appeared before the Investigating Officer and their statement under section 161 Cr.P.C. have already been recorded.

It is also submitted that though victim has not implicated the present petitioners, some other witnesses have implicated the names of the 3(three) petitioners as involved in the offence alleged in the FIR.

Learned Additional Public Prosecutor submits that the Investigating Officer has not collected the injury report of the injured person.

I have considered the submissions made by learned counsel for both sides as well as perused the materials available on record, including the case diary of Geetanagar P.S. Case No. 28/2023.

Considering the fact that the present petitioners have co-operated with the Investigating Officer and have appeared before him in pursuant to the directions made by this Court and their statement under section 161 Cr.P.C. have also been recorded and also considering the fact that there is no prayer from the Investigating Officer as to whether any further custodial detention of the present petitioners may be required for the sake of completion of the investigation or not, this Court is of the considered opinion that custodial detention of the present petitioners, may not be necessary for fair completion of the investigation of Geetanagar P.S. Case No. 28/2023.

In view of above, the interim anticipatory bail granted to the present petitioners namely, namely, 1. Sri Debashish Sarkar, 2. Sri Sirajul Islam and 3. Sri Ranjan Paul, by order dated 21.02.2023 is hereby made absolute with the conditions that they shall continue to co-operate with the Geetanagar P.S. Case No. 28/2023.

With the above observation, this anticipatory bail application is hereby

disposed of.

JUDGE

Comparing Assistant