

GAHC010042262023



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

Case No. : Bail Appln./689/2023

MD. SHAKIR ANSARI AND ANR
S/O LATE MAHAMMAD YUSUF, P/R/O KAIRANA, P.S.-KAIRANA, DIST-
SHAMLI, UTTAR PRADESH AND P/R/A DHIRENPARA, NEAR L.P. SCHOOL,
P.O. AND P.S.-FATASHIL AMBARI, DIST-KAMRUP (M), GUWAHATI-781025,
ASSAM

2: SALEH AHMED
S/O LATE ABDUSH SAMAD
R/O NALJURI
P.O.-TAMABIL
P.S.-GOWAINGHAT
DIST-SYLHET
BANGLADES

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. V N UPADHYAY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

Date : 17-03-2023

Heard Ms. P. Mishra, learned counsel for the applicants. Also heard Mr. K. K. Das, learned Additional Public Prosecutor representing the State respondent.

This application is filed under Section 438 of the Criminal Procedure Code, 1973, praying for regular bail in connection with Satgaon Police Station Case No.29/2023, registered under Sections 379/411 of the Indian Penal Code.

Case Diary has been receive and I have peruse the same.

Ms. P. Mishra, learned counsel for the applicants has submitted that accused/applicant No. 1 is a business-man by profession and he is running a business of selling electronic items and those items were stored in his rented premises. The accused/applicant No. 1 had purchased the seized items from the consigned sellers. He also submitted that the accused/applicant No. 2 is no way involved in the alleged offence as stated in the FIR, as he is the resident of Bangladesh and he visited India for the purpose of attending the Live Concert of A.R. Rahman which was organized at ACA Stadium, Barsapara, Guwahati on 01.02.2023. The accused/applicant No.2 was available at the time of arrest of the accused No. 1 and he was apprehended by police under suspicion. Further, it is submitted by the learned counsel for the applicants that the case has been registered under Sections 379/411.

The learned counsel for the applicants also submitted that the accused/applicant claims to be owner of the seized articles and also submitted two tax invoices, i.e in the name of Threen Electronics and Krishna enterprises respectively. It is also seen that the accused/applicants were behind the bar for

46 days, thus, the IO got the ample opportunity to interrogate the accused persons. In the same time it is also submitted that both the accused/applicants were also in police remand and hence, there is no necessity for further custodial interrogation of the present accused/applicant. Thus, considering the length of detention undergone by the accused/applicant they may be enlarged on bail.

In this regard, the learned Additional Public Prosecutor, Mr. K. K. Das, has submitted that from the materials collected by the IO, it is seen that though the applicant No.1 has not produce any valid documents in regard to the purchased of items, and he further submitted two tax invoices in the name of the aforesaid enterprises, which are produced before this Court, but there was no authorized signature in the Krishna Enterprises and the genuineness of the same is yet to be verified by the IO. Accordingly, it is submitted that the custodial interrogation may be necessary here in this case for proper investigation of this case.

After hearing the submissions made by the learned Advocates of both sides and also perusing the case diary, it reveals that there is sufficient progress in the investigation till date and no one has claimed the seized items.

After hearing the submissions made by the learned Advocates of both sides as well as perusing the Case Diary and also considering the length of detention already undergone by the accused/applicant, i.e. 46 days, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioner in the custody and accordingly, further custodial interrogation of the accused/petitioner seems to be not necessary here in this case.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/-

(Rupees twenty thousand) each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup(M), Guwahati, the accused/applicants, namely, MD. Shakir Ansari and Mr. Saleh Ahmed, be enlarged on bail, subject to the following conditions:

- (i) that the applicants shall submit their Identity Card like Aadhaar card, Pan Card etc, before the learned Chief Judicial Magistrate Kamrup (M), and said Court shall strictly verify the documents before accepting bail bonds;
- (ii) that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; and
- (iii) that the applicants shall not leave the jurisdiction of the learned learned Chief Judicial Magistrate, Kamrup(M), Guwahati, without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant