

GAHC010067322023



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

Case No. : Bail Appln./1156/2023

JUDDYCHAN HAFLONGBAR @ AMERICA DIMASA AND 3 ORS.
S/O BIJULAL HAFLONGBER R/O VILL. DAMADI HAWAR P.S. MAIBONG
DIST. DIMA HASAO ASSAM

2: PRITOMJIT JIDUNG @ GALAO DIMASA
S/O AJIT JIDUNG R/O VILL. PURANA GALAPANG P.S. MAIBONG DIST.
DIMA HASAO ASSAM

3: DIPOLJIT LANGTHASA @ DAORAJA
S/O SOROMONI LANGTHASA R/O VILL. KHEPRE I P.S. MAIBONG DIST.
DIMA HASAO ASSAM

4: NABOJIT HOJAI @ NAGA HOJA DIMASA
S/O PROJEN HOJAI R/O VILL. DIMAINO P.S DEHANGI DIST. DIMA HASAO
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 27.04.2023

Heard Mr. A. Choudhury, learned counsel for the petitioners and Mr. R.J. Baruah, learned APP for the State.

2. The petitioners, are shown arrested on 21.12.2021 in connection with the Maibong PS Case No. 34/2021, which is tried as Sessions Case No.09/2022 under Section 365/342/325/302/34 IPC have prayed for regular bail under Section 439 CrPC.

3. The learned counsel for the petitioners has submitted that as per the FIR, during investigation the informant who is the police personnel had recovered six persons from the DNLA designated camp situated at Kashimpur, who were allegedly kidnapped from the jurisdiction of Langting police station. Out of six persons, four of them were found in injured conditions and were sent to Maibong CHC for treatment and the other two persons were recovered dead. Accordingly, Langting PS case No. 33/2021 was registered under section 120(B)/457/365/325/302 IPC. Thereafter, upon visiting the DNLA camp, five persons, namely, (1) Aprash Langthasa, (2) Nairingdao Bathari, (3) Jamuna Singh Hasnu, (4) Joyprojit Nunisa and (5) Sri Diplal Dibragede were recovered in grievously injured condition. In this connection, the learned counsel for the petitioners has submitted that out of the recovered persons, Aprash Langthasa had expired and his father and brother were examined in the trial as PW-1 and 2. It may be mentioned that charges were framed on 18.04.2022 and as per the

charge-sheet 26 witnesses are listed. The other recovered persons were examined as PW-4, PW-5, PW-6 and PW-7 respectively. It is submitted that in course of their examination-in-chief they had not disclosed the name of the present petitioners of implicating them for the offence for which they are being tried.

4. The learned APP has referred to the scanned copy of the records which was called along with the records of BA 1497/2022 as well as a copy of the PW-1 to 7 and has opposed the prayer for bail on the ground that the petitioners are members of DNLA, which is a banned organization, but as they have entered into ceasefire agreement with the appropriate government, the petitioners who are DNLA cadre, are now residing at designated DNLA camp at Kashimpur. It is submitted that in view of the terms of the ceasefire agreement, the DNLA cadre are permitted to keep arms.

5. It was not disputed by the learned APP that none of the witnesses examined so far by the prosecution, has taken the name of the petitioners despite allegation contained in their statement made before the police. But the State did not deem it appropriate to have the witnesses declared hostile. It is projected that the PW nos. 3 to 7 who were the only eye-witnesses have already been examined. The Court is inclined to observe that although the witnesses have not named any accused for such crime for which the petitioners have been charged.

6. In view of the fact that the petitioners examined so far have not implicated the petitioners by name or offence of their charge, the Court is of the considered opinion that the petitioners be enlarged on bail. Accordingly, the

prayer for bail is allowed.

7. Accordingly, the Court is inclined to grant bail to the petitioners, namely, (1) Sri Juddychan Haflongbar @ America Dimasa, (2) Sri Pritomjit Jidung @ Galao Dimasa, (3) Sri Dipoljit Langthasa @ Daoraja and (4) Sri Nobojit Hojai @ Naga Hoja Dimasa in connection with the aforesaid case on furnishing bail bond of Rs.1,00,000/- each with two solvent surety of like amount to the satisfaction of the learned Court of Sessions Judge, Dima Hasao, Haflong.

8. The bail is granted on the following conditions:

1. The petitioners shall appear without fail on all dates of the trial and in the event they cannot appear for good reasons, they would make sure that they are represented by their learned counsel and they would also give an undertaking that they would not dispute their own identity or the identity of the witnesses which were examined in their absence.
2. In the event of default in appearance, it would be open to the learned Court below to issue NBWA to compel appearance of the petitioners. The committal/ trial Court would also be at liberty to proceed against the bailors.
3. The petitioners 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 him from disclosing such facts to Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.

4. The petitioners shall not obstruct the smooth progress of the investigation/trial.
5. The petitioners shall not misuse their liberty in any manner.
9. This application stands disposed of.

JUDGE

Comparing Assistant