

GAHC010069032023



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

Case No. : Bail Appln./1201/2023

JUBIN NESSA AND 2 ORS
W/O- HAJON ALI, R/O- VILL- 3 NO. DAKHIN RANGAPANI, P.S. BOKO, DIST.-
KAMRUP, ASSAM

2: HAJERA KHATUN
W/O- LT. JOBAN ALI
R/O- VILL- 3 NO. DAKHIN RANGAPANI
P.S. BOKO
DIST.- KAMRUP
ASSAM

3: JESMINA KHATUN
W/O- ROFIQUL ISLAM
R/O- VILL- 3 NO. DAKHIN RANGAPANI
P.S. BOKO
DIST.- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. P RAHMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 21.04.2023

Heard Mr. P. Rahman, learned counsel appears for the petitioner. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioners, Jubin Nessa, Hajera Khatun and Jesmina Khatun seeking bail as they are arrested in connection with Boko P.S. Case No. 124/2023 registered under Sections 353/325/147/148/149/394/342/307 of IPC.

3. The petitioners are arrested on 18.03.2023 and have been in custody since then.

4. By the FIR dated 17.03.2023 lodged by the informant, one, Moniruddin Ahmed, it was alleged that the informant along with the Investigating Officer and other police staff arrived at Badla Bazar to investigate a case registered vide Boko P.S Case No. 111/2023. The accused person in connection with the same P.S Case was identified and while he was being escorted into the van to bring in to the police station, some persons, who claimed to be the relatives of the said accused person, accosted the police party and they assaulted the police personnel.

5. The miscreants had forcibly snatched away the weapons

of the police party. Subsequently, a huge crowd gathered and the miscreants attacked the police party and had torn their uniforms and whistles etc. when the police came to forbid them.

6. Accordingly, the said FIR was received and registered as Boko P.S. Case No. 124/2023 registered under Sections 353/325/147/148/149/394/342/307 of IPC. Upon investigation initiated the present petitioners were arrested by the police in connection with the instant case.

7. This Court by order dated 11.04.2023 directed the Case Diary to be produced. Case Diary as directed has been produced before this Court today.

8. Upon perusal of the case dairy, it is seen that the investigation is being carried on in the matter and the statements of the various witnesses including the petitioners have been recorded. The case dairy, however, does not contain any injury report showing the injury alleged to have been suffered by the informant and the other police party. In the Section 164 Cr. P.C statement recorded, the said witness has not implicated the present petitioners in respect to the assault stated to have been caused on the police personnel. No incriminating materials are noticed from the case dairy to suggest that further custodial detentions of the petitioners are necessary in connection with the investigations of the case. There are no materials to suggest that released of the petitioners at this stage will cause impediment to the

investigation carried on.

9. Upon due perusal of the case diary and upon hearing the counsels for the parties, this Court is of the view that further custodial detention of the petitioners are not necessary in the present case. Accordingly, petitioners are directed to be released on bail forthwith subject to executing a bail bond of Rs.20,000/- (Rupees twenty thousand) only each with 1 local surety of like amount subject to the satisfaction of the Chief Judicial Magistrate, Amingaon, Kamrup (R). The bail, granted however, subjected to the following conditions:-

- i) The petitioners shall continue to appear before the police once a month and cooperate with the Investigating Officer as and when required, till completion of investigation.
- ii) The petitioners shall not change his residence or place of business, without prior written permission from the Court of Chief Judicial Magistrate, Amingaon, Kamrup (R).
- iii) That the petitioners shall not hamper or tamper with the investigation in any manner; and
- iv) That the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person/witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer in

connection to this Police Station Case.

10. If any of the conditions are found to be violated by the petitioners then the Investigating Officer shall be at liberty to seek cancellation of the bail granted to the accused.
11. With the above direction, the anticipatory bail petition is accordingly allowed and disposed of.
12. Return the case dairy.

JUDGE

Comparing Assistant