

GAHC010071022023



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

Case No. : Bail Appln./1209/2023

NIAJUDDIN AND 2 ORS
S/O- LATE ABDUS SUKKUR AND R/O- VILL- P.O. GULCHARA, P.S.
NILAMBAZAR, DIST.- KARIMGANJ

2: NAIMUDDIN
S/O- LATE ABDUS SUKKUR AND R/O- VILL- P.O. GULCHARA
P.S. NILAMBAZAR
DIST.- KARIMGANJ

3: SADUDDIN
S/O- LATE ABDUS SUKKUR AND R/O- VILL- P.O. GULCHARA
P.S. NILAMBAZAR
DIST.- KARIMGANJ

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 27-04-2023

Heard Mr. H.R.A. Choudhury, learned Senior Counsel assisted by Mr. B.A. Choudhury, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam.

This Bail Application has been filed by the petitioners, namely, 1) Niajuddin, 2) Niamuddin & 3) Saduddin, who are in custody since 17.03.2023 in connection with Nilambazar P.S. Case No.69/2023 registered under Section 448/436/427/34 of the IPC.

Learned Senior Counsel for the petitioners submits that by an FIR dated 09.03.2023 certain allegations were made against the petitioners that they had illegally entered into the house of the informant and had set fire to her house and burned it into ashes. As a consequence thereof, besides ornaments, money and other documents, one cow and eight sheep were also got burned into ashes. The informant and her family members ran out from the house but they could not retrieve any belongings which were already destroyed due to the fire which was set by the petitioners. It is alleged that son of the informant and the daughter of the accused petitioner had eloped and out of anger the accused petitioners came and set fire to the dwelling house of the informant.

This Court vide order dated 03/04/2023 had called for the case diary.

Case diary has been received by the learned Addl. P.P. and the same has been produced before this Court.

Learned Addl. P.P. submits that the investigation is still going on and no charge-sheet has been filed in this matter. Accordingly, Addl. P.P submits that the petitioners ought not to be released on bail at this stage.

I have heard learned counsel for the parties and perused the case diary.

From the post-mortem report issued by the Veterinary Officer of the State Veterinary Dispensary, Nilambazar, it is seen that 6 (six) number of sheep were burnt at the alleged fire. Three witnesses were examined who do not directly indicate any involvement of the petitioners, although there were statements suggesting that the accused petitioners were seen with plastic gallons and purchasing of petrol. The matter has been investigated by the police but till date no charge-sheet has been filed. The petitioners' statements were also recorded.

On perusal of the case diary, it is seen that no incriminating materials are available in the case diary to suggest that release of the petitioners at this stage of investigation will cause impediment in the investigation carried out by the police.

Considering the period of detention as well as the progress of the investigation and taking into consideration that no incriminating materials are available in the case diary to suggest that the release of the petitioners at this stage will affect the further investigation in the matter or that further custodial detention is necessary for investigation at this stage, this Court is, therefore, inclined to direct the release the petitioners on bail. Accordingly, the petitioners, named above, shall be released on bail upon furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand only) each with 1 (one) local surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Karimganj, subject, of course to the following conditions:

- i) That the petitioners shall co-operate with the investigation as and when required and shall appear before the IO as and when directed till the investigation is over;
- ii) That the petitioners shall not hamper or tamper with the investigation in any manner;
- iii) That 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 the Court or to any police office; and
- iv) That the petitioners shall not leave the jurisdiction of Karimganj P.S. without obtaining prior written permission from the concerned investigating officer of the case.

In the event, the petitioners are found to have violated any of the above conditions or are found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the bail granted to the petitioners.

The bail application is accordingly disposed of.

Return the case diary.

JUDGE

Comparing Assistant