

GAHC010071202023



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

Case : Bail Appln./1205/2023

MOHAN RAJBONGSHI AND 2 ORS
S/O- LATE KOKAN RAI RAJBONGSHI

2: MOHEN RAJBONGSHI
S/O MOHAN RAJBONGSHI

3: SUMITRA RAJBONGSHI
W/O-MOHAN RAJBONGSHI

ALL ARE R/O SUNSALI SUNALIPAR

P.O AND P.S- NOONMATI
DIST- KAMRUP (M)
ASSAM
VERSUS

THE STATE OF ASSAM
REP. BY PP
ASSAM

Advocate for : MR. R PHUKAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

09.05.2023

Heard Mr. R. Phukan, learned counsel for the accused-petitioners and Mr. B.B Gogoi, learned Addl. PP for the State.

2. This bail application has been filed by the petitioners, namely, **1. Mohan Rajbongshi, 2. Mohen Rajbongshi and 3. Sumitra Rajbongshi** seeking bail in connection with Noonmati P.S. Case No. 94/2023 under Sections 342/326/354/394/506/34 of the IPC (Corresponding to GR Case No. 2077/23). The accused-petitioners were arrested on 23.03.2023 and since then they have been in custody.

3. It is submitted that by an FIR dated 23.03.2023 lodged by the informant, it was alleged that on 23.03.2023, during the absence of the informant from his house, the accused persons forcefully carried the wife of the informant from inside the gateway to his house to their house and thereafter assaulted her after tying her hands, legs. Because of the assault, grievous injury was sustained by the wife of the informant and there were serious injuries caused to the wife of the informant. Wearing apparels of the injured was also torn by the accused persons and the ornaments that she was wearing were also taken away by the accused persons. Further threat of killing the informant and his wife made by the accused-persons. The said FIR was accordingly registered as Noonmati PS Case No. 94/2023 under Sections 342/326/354/394/506/34 of the IPC.

4. This Court by earlier orders dated 31.03.2023 and 10.04.2023 called for the case diary along with the medical report.

5. It is submitted by the learned counsel for the petitioners that a cross FIR has also been lodged by the petitioners before the concerned police station. It is submitted that the dispute between the family members of the informant as well as the petitioners are with regard to a plot of land sold by the petitioners to the informant's family with a provision for an approach road. Because of which, a quarrel ensued between the two families from some time past. It is further stated that when the quarrel took place between the informant's family, the petitioner No. 3 and his daughter was assaulted by the informant and pursuant to which they had also lodged an FIR on 23.03.2023 which is registered as Noonmati P.S. Case No. 93/2023 under Sections 448/325/34 of the IPC. It is submitted that the petitioners No. 1 & 2 were not at the place of occurrence when the quarrel took place between the informant's family and the petitioners. It is further submitted that the allegations made in the FIR are completely false and concocted and therefore, the detention of the petitioners in custody in connection with the said case is wholly uncalled for.

6. The learned Addl. PP has produced the case diary along with the medical report before this Court.

7. The case diary produced has been carefully perused. Pleadings available on record are also perused.

8. Upon hearing the learned counsels for the parties and upon perusal of the case diary, it is seen that the investigations in the matter have progressed and no materials are found in the case diary to suggest that further custodial detention of the petitioners are necessary to complete the investigation by the investigating officer. No materials are found in the case diary to suggest that release of the petitioners on bail at this stage will cause impediment of the investigation carried on. Accordingly, this Court is of the view that taking into

account the period of detention as well as the progress of the investigation carried on, the petitioners can be released on bail in connection with the said case.

9. Accordingly, the accused-petitioners, named above, shall be released on bail in connection with the aforementioned case, on furnishing a bail bond of **Rs. 25,000/-** (Rupees Twenty Five Thousand) each with one local surety of like amount to the satisfaction of the Court of **CJM, Kamrup(M)**, subject, of course, to the following conditions:

(i) That the accused-petitioners shall appear before the investigating officer as and when required;

(ii) That the accused-petitioners shall not hamper or tamper with the investigation in any manner;

(iii) That the accused-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 officer; and

(iv) That the accused-petitioners shall not leave the jurisdiction without obtaining prior permission from the concerned Court.

10. Accordingly, the bail application stands disposed of.

11. Return the case diary.

JUDGE

Comparing Assistant