

GAHC010072822023



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

Case No. : Bail Appln./1312/2023

BABUL HUSSAIN BARBHUIYA AND ANR
S/O LT. SIRAJ UDDIN BARBHUIYA
VILL- DHANEHARI PT. II
P.S. SONAI,
DIST. CACHAR, ASSAM

2: RAKIB HUSSAIN BARBHUIYA
S/O BABUL HUSSAIN BARBHUIYA
VILL- DHANEHARI PT. II
P.S. SONAI

DIST. CACHAR
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N H BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 21.04.2023

Heard Mr. N. H. Barbhuiya, learned counsel appears for

the petitioner. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.

2. The bail application has been preferred by the petitioners seeking bail as they are arrested in connection with Sonai P.S. Case No. 37/2023 corresponding to G.R. Case No. 888/2023 under Section 147/326/379/436 of IPC.

3. An FIR dated 11.03.2023 was lodged by the informant, one, Nazmul Hussain Barbhuiya alleging assault and causing injury to the brother of the informant because of which the injured person had to be admitted to Silchar Medical College and Hospital, Silchar and is undergoing treatment. There is a further allegation of the accused No. 2, namely, the petitioner No.2, herein, to have set fire to the sub-centre, where the mother of the informant is working as a ASHA worker and causing damage to the documents and furniture as well as the various other articles kept in the said centre.

4. The said FIR was received and registered as Sonai P.S. Case No. 37/2023 corresponding to G.R. Case No. 888/2023 under Section 147/326/379/436 of IPC.

5. In pursuant to the investigation initiated, the petitioner was arrested on 12.03.2023 and since then they are in custody.

6. 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.

7. The Medical Report reveals injuries caused by blunt weapons on the person, who stated to be the brother of the informant. One injury is caused on the leg shown to be the grievous in nature, whereas, the other injuries are shown to be simple in nature. The case dairy has been carefully perused and it is seen that the statements of the various witnesses and the accused persons have been recorded. The investigation in the matter has been carried on but no charge-sheet has been filed as on date.

8. Upon perusal of the case dairy, no materials are seen to suggest that further custodial detention of the petitioner is necessary for continuing the investigation. No materials are available to suggest that the petitioners detention is necessary to complete the investigation, which is carried on. No materials are also available to suggest that the release of the petitioner at this stage will cause any impediment to the investigation carried on by the Police.

9. Accordingly, petitioners are directed to be released on bail forthwith subject to executing a bail bond of Rs.25,000/- (Rupees twenty five thousand) only each with 1 local surety of like amount subject to the satisfaction of the Chief Judicial Magistrate, Silchar, Cachar. 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, Silchar, Cachar.

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