

GAHC010073772023



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

Case No. : Bail Appln./1287/2023

AYUSH GUPTA AND ANR
S/O SRI KANHAYALAL GUPTA
R/O SRIMATA NAGAR, WARD NO. 5, GOLAGHAT, DIST. GOLAGHAT,
ASSAM-785621

2: SRI AJAY GUPTA
S/O LALCHAND GUPTA
R/O SRIMANTA NAGAR
WARD NO. 5

GOLAGHAT
DIST. GOLAGHAT
ASSAM-78562

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R DUBEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 27.04.2023

In view of the order passed in I/A.(CrI.)/330/2023 the

Registry is directed to make necessary endorsements and corrections in respect of the name of the father of petitioner No.2 from Sri Kanhayalal Gupta to Lalchand Gupta.

2. Heard Mr. R. Dubey, learned counsel appears for the petitioners. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor appears for the State of Assam.

3. The bail application has been preferred by the petitioners, namely, Sri Ayush Gupta and Sri Ajay Gupta, seeking bail in connection with Golaghat Police Station Case No. 109/2023 under Sections 120(B)/379/411/406/413/420 of Indian Penal Code. The petitioners were arrested on 09.03.2023 and since then he has been in custody.

4. An FIR was lodged on 08.03.2023 by the informant, one, Joly Gogoi, SI(P), Golaghat Police Station. It was alleged that in connection with the investigation with another case namely, GLT PS GDE No. 144 dated 07.03.2023, when the I/O visited the Godowon of the petitioners, a total four and half bags of suspected Burmese areca nuts were seen concealed in jute bags and it was seized from the possession of the said accused persons. On the basis of the seizures made and the investigations carried on by the I/O, the petitioners are arrested on 09.03.2023 and since then they have been in custody.

5. This Court has called for the Case Diary. Mr. B. B. Gogoi, learned Addl. P.P. has produced the case dairy as called for and has submitted that the FSL report in respect of the seized

items have not been received. Similar report is awaited from FSL and Food Analysis Report is also awaited.

6. Perusal of the case diary reveals that the matter is still under investigation. The learned Addl. P.P also submits that the prime accused in the matter has not been arrested as on date and therefore, release of the present accused/petitioners at this stage may affect the investigation carried on.

7. The Case Diary produced has been carefully perused. It is seen that the investigation has progressed in the matter; however, no charge-sheet has been filed as on date. The seized materials, which are stated to be Burmese areca nuts, were suspected to have been brought from across the border.

8. The Case Diary does not reveal any materials to suggest that further custodial detention of the petitioners are necessary. Taking into account the period undergone in custody by the petitioners and the progress of investigation, the bail petition is allowed. Accordingly, petitioners are directed to be released on bail forthwith subject to executing a bail bond of Rs.30,000/- (Rupees thirty thousand) only with 2 local sureties of like amount to the satisfaction of the Chief Judicial Magistrate, Golaghat. 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, Golaghat.

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.

9. 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.

10. With the above direction, the bail petition is accordingly allowed and disposed of.

11. Return the Case Diary.

JUDGE

Comparing Assistant