

GAHC010075962023



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

Case No. : Bail Appln./1298/2023

SAFA UDDIN AND ANR
S/O JALAL UDDIN, R/O VILL-DALGRAM (NAYAGRAM), P.S.-NILAMBAZAR,
DIST-KARIMGANJ, ASSAM

2: MOYNUL HAQUE
S/O ABDUL KHALIK
R/O VILL-DALGRAM (NAYAGRAM)
P.S.-NILAMBAZAR
DIST-KARIMGANJ
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 11.04.2023

Heard Mr. A. Ahmed, learned counsel for the petitioners and Mr. K.K.

Parasar, learned APP for the State.

2. The petitioners, who are in judicial custody since 23.06.2022 in connection with the Nilambazar PS Case No. 327/2020 under Section 120(B)/364(A) IPC have prayed for regular bail under Section 439 CrPC.

3. The learned APP has perused the records of BA 2287/2022, which contains the scanned copy of the case records received from the Court of learned Chief Judicial Magistrate, Karimganj and he has opposed the prayer for bail on the ground that the petitioner-accused had kidnapped the son of the informant and he was taken and confined in Bangladesh and a sum of Rs.2,00,000/- was demanded for safe release of the son the informant.

4. It is submitted that the victim boy has been recovered. It is also submitted that the previous bail application of the petitioner was rejected by order dated 29.09.2022 passed in BA 2287/2022 and it is submitted that the petitioners had managed to travel to Bangladesh with the kidnapped victim and therefore, if the petitioners are enlarged on bail, there would be no chance that they would cooperate with the trial.

5. The learned counsel for the petitioners has referred to Annexure-IX of this bail application, which is a copy of order dated 13.03.2023 passed in GR 3371/2020 and it is submitted that the case is still in the appearance stage and the next date of trial is fixed on 02.05.2023 for appearance. Accordingly, it is submitted that the case is still at committal stage and there is no chance of early beginning of trial.

6. The Court finds that the learned APP has made a point that as the petitioners had kidnapped the victim and he was taken to Bangladesh, the

petitioners have easy access to Bangladesh through some porous area in the border and it was for this reason bail was refused by order dated 29.09.2022 passed in BA 2287/2022.

7. However, it is seen that six months have lapsed after order dated 29.09.2022, and the case is still at committal stage. Therefore, the Court is of the considered opinion that in this case bail ought to be granted with certain stringent conditions. Accordingly, considering the fact that the case is still at committal stage and the next date of trial is fixed on 02.05.2023 for appearance of the absconding accused, the Court is inclined to grant bail to the petitioners, namely, (1) Safa Uddin and (2) Moynul Haque in connection with the aforesaid case on furnishing bail bond of Rs.1,50,000/- each with two solvent surety of like amount to the satisfaction of the learned Court of Chief Judicial Magistrate, Karimganj. Both the bailors should offer his/her immovable property as security for grant of bail.

8. The bail is granted on the following conditions:

1. The petitioners shall appear without fail on all dates of the trial and in the event they cannot appear for good reasons, they would make sure that they are represented by their learned counsel and they would also give an undertaking that they would not dispute their own identity or the identity of the witnesses which were examined in their absence.
2. In the event of default in appearance, it would be open to the learned Court below to issue NBWA to compel appearance of the petitioners. The committal/ trial Court would also be at liberty to proceed against the bailors.

3. 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 Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
4. The petitioners shall not obstruct the smooth progress of the investigation/trial.
5. The petitioners shall not misuse their liberty in any manner.
6. The petitioners shall appear before the I/O within 10 (ten) days from the date of their release.
9. This application stands disposed of.
10. The Registry shall detach the records of BA 2287/2022.

JUDGE

Comparing Assistant