

GAHC010076782023



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

Case No. : Bail Appln./1313/2023

ZANAB KHAN AND ANR
S/O- SIRAJ AHAMAD, R/O- VILL- SANGALYUMPHAM CHERAPUR MAKHA,
P.O. AND P.S. LEIKAI, IN THE DISTRICT OF THOUBAL, STATE- MANIPUR,
PIN- 795001

2: HABIBUR RAHMAN
S/O- NUR JAMAN
R/O- VILL- SANGALYUMPHAM CHERAPUR MAKHA
P.O. AND P.S. LEIKAI
IN THE DISTRICT OF THOUBAL
STATE- MANIPUR, PIN- 79500

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE P.P., ASSAM

2:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (PCCF)
ASSAM
AARANYA BHAWAN
BATAHGULI, PANJABARI ROAD
GUWAHATI- 781037

3:THE ASSISTANT CONSERVATOR OF FOREST
I/C RANGE FOREST OFFICER
CENTRAL RANGE
KARBI-ANGLONG EAST DIVISION
MANJA
ASSAM
PIN- 78246

Advocate for the Petitioner : M K BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

:: O R D E R ::

21.04.2023

Heard Mr. M.K. Borah, learned counsel for the petitioners. Also heard Mr. B. Sarma, learned Special Public Prosecutor, Forest Department, Assam.

The present application under Section 439 Cr.PC. is preferred by the accused, namely, Zanab Khan and Habibur Rahman who are languishing in jail hajat since 12.04.2022 in connection with C.R. No.1/2022-2023 under Sections 2/9/39/40(2A), 43, 48, 48A, 49B, 50 and 51 of the Wildlife (Protection) Act, 1972 for grant bail.

The gist of allegation, against the present accused persons, is that on 12.04.2022, they have been found carrying one Gibbon SPP [Hylobatidae] and four Parimate SPP, [Cercopithecidae], illegally, in a Maruti Suzuki Eco vehicle.

Mr. Borah, learned counsel for the petitioners submits that this petition is preferred on the ground of length of detention and also on the ground that the case is not covered under Section 51 of the Wildlife (Protection) Act, 1972.

Mr. Borah further submits while this Court, while disposing of the earlier bail application No.321/2023, vide order dated 09.03.2023, directed that the learned Court below to complete the trial within a period of one month. But, the learned Court below has failed to complete the same and therefore, Mr. Borah contended to allow this petition.

Per contra, Mr. B. Sarma, Special Public Prosecutor, Forest Department

submits that as per the latest status report of the learned Court below dated 18.04.2023, examination of all the witnesses have already been completed and now the case is pending for examination of the accused under Section 313 Cr.P.C. and it is at the last stage of trial and therefore, Mr. Sarma contended to dismiss the petition.

Having heard the submissions of the learned counsel of both the sides, I have carefully gone through the petition and the documents placed on record and also perused the status report, dated 18.04.2023 communicated vide Memo No.DJKA/3279/2023.

It appears from the status report dated 18.04.2023 that examination of the prosecution witnesses has already been closed on 23.03.2023, and the case was fixed for examination of the accused, under Section 313 of Cr.P.C. on 05.04.2023. But, on that day, the accused could not be examined under Section 313 Cr.P.C. and the next date was fixed on 18.04.2023.

Indisputably the case is at the fag end of trial. Besides, both the accused hails from Manipur and if enlarged on bail then it would be difficult to procure their attendance and in such event disposal of the case would be delayed further. Further, it appears that the ground assigned for filing this fresh petition by the learned counsel for the petitioners has already been dealt with by this Court in the order dated 09.03.2023 passed in BA No.321/2023 and also in the case BA No.1059/2023 vide order dated 23.03.2023. No new ground has been assigned for filing the present petition.

Having regards to above and also the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused.

Accordingly, the present petition (Bail Application) is dismissed.

However, the learned Court below is directed again to complete the trial within a period of 15(fifteen) days from today.

Registry to communicate this order to the learned Court below forthwith.

JUDGE

Comparing Assistant