

GAHC010064692023



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

Case No. : Bail Appln./1356/2023

MD. ANWAR HUSSAIN AND ANR
S/O ABDUL GAFUR
R/O VILL- HAIDUBI (PASCHIMA)
P.S. BATADROBA
DHING DIST.NAGAON
ASSAM PIN-782122

2: MAINUL HAQUE
S/O LT. ABBAS ALI
R/O VILL- HAIDUBI (PASCHIMA)
P.S. BATADROBA
DHING DIST. NAGAON
ASSAM PIN-782122
VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

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

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR
ORDER

Date : 03.05.2023

Heard Mr. R. Goswami, learned counsel appearing for the accused petitioners as well as Mr. R. J. Baruah, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely, **1. Md. Anwar Hussain and 2. Mainul Haque**, have prayed for grant of bail in connection with **Batadrava P.S. Case No. 54/2022** under Sections **120(B)/121/143/144/145/147/148/149/152/153/155/326/307/33 3/342/353/427/435/436/440/447/34/511** of the IPC r/w Sections **3/4** of PDPP Act.

The scanned copy of the case record along with the case diary, as called for, is placed before the Court.

The accused petitioner No. 1 has been in judicial custody since 23.05.2022, i.e. for 346 days and the accused petitioner No. 2 has been in judicial custody since 27.05.2022, i.e. for 342 days.

The FIR reveals the allegation that on 21.05.2022, the informant lodged an FIR, stating, *inter-alia*, that on 21.05.2022 at about 3 PM, around 200 people equipped with deadly weapons, like sticks, *dao* and explosive materials, such as kerosene and petrol etc., led by the FIR named accused persons, numbering 18, including the present accused petitioners, formed an unlawful assembly and trespassed into Batadrava P.S. carrying a dead body of one Safiquil and attacked the police personnel on duty at the police station. They attacked the police personnel and, as a result of physical assault, some of them sustained grievous injuries and further, set ablaze the police station causing damage to the entire office and materials therein.

Perusal of the seizure memos show that large number of partially burnt fire arms and other materials were seized in connection with the case. Various expert reports show that the vehicles were damaged due to fire and the fire

arms, magazines and ammunitions were burnt. There is video footage of the entire incident revealing commission of the aforesaid offences. On the other hand, medical reports show that four persons sustained injuries in the said incident.

Case records reveals that charges are yet to be considered and framed by the learned Trial Court. A perusal of the case diary, including the statements of the witnesses recorded under Section 164 Cr.P.C., it is seen that there is abundance of prima facie incriminating material against the accused petitioners.

Three co-accused persons have already been enlarged on bail vide order, dated 27.02.2023 passed in B.A. Nos. 3370/2023 and 356/2023.

In view of the above reasons and maintaining parity in orders and further, the length of detention as well as there is no possibility of early completion of trial of the case, this Court is of the considered opinion that further continuation of detention of the accused petitioners in the interest of the ongoing trial of the case is not warranted.

Accordingly, it is provided that the accused petitioners, named above, shall be released on bail of **Rs. 1 Lakh each** with two sureties of like amount to the satisfaction of the **learned Sessions Judge, Nagaon** subject to the following conditions-

- i) That the accused petitioners shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of; and
- ii) 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; and

- iii) That the accused petitioners shall refrain from committing any similar offences in future, of which they are suspected of commission; and
- iv) That out of the two sureties, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

This disposes of the bail application.

JUDGE

Comparing Assistant