

GAHC010082042023



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

Case No. : Bail Appln./1390/2023

RASHIDA KHATUN AND ANR
W/O LATE SAFIKUL ISLAM
R/O VILL- SALONABARI
UNDER DHING POLICE STATION IN THE DISTRICT OF NAGAON
PIN CODE- 782123

2: RAFIKUL ISLAM
S/O HAMID ALI
R/O VILL- SALONABARI
UNDER DHING POLICE STATION IN THE DISTRICT OF NAGAON
PIN CODE- 782123
VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. N AHMED
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

29.05.2023

Heard Mr. B.M. Choudhury, learned Sr. 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) Rashida Khatun and 2) Rafikul Islam** have prayed for grant of bail in connection **Sessions (T-1) Case No.38/2022** u/s **120B/121/ 143/144/ 145/147/149/152/153/155/326/307/333/342/353/427/436/ 440/ 447/450/34/511** of the IPC read with Sections **3/4** of the PDPP Act arising out of **P.R. Case No.2537/2022** in connection with **Batadrava P.S. Case No. 54/2022**, pending in the Court of learned Addl. Sessions Judge, No.2, Nagaon.

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

The brief facts of the case are that on 21.05.2022, complainant, Lakhi Bora, ASI of Batadrava P.S., Nagaon lodged an FIR before the Officer-in-Charge, Batadrava P.S. to the effect that on that day, at about 3 p.m., around 200 people armed with deadly weapons like lathis, inflammable materials etc. led by some FIR named accused persons by forming an unlawful assembly trespassed into Batadrava P.S. The mob brought with them the dead body of one Safikul Islam and started attacking the police personnel on duty as well as set fire to the police station, vehicles, caused immense damage to public properties including arms and ammunitions, govt. registers and records like general case diaries, khatians, village crime note books, case diaries, seized priorities in the malkhana, cash and documents etc. Due to assault by the violent mob some personnel sustained grievous injuries.

It is noticed that the accused petitioners have been in judicial custody

since 22.05.2022, that is, for 373 days.

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 framed under Sections 120B/143/121/149/144/145/147/148/152/153/155/326/307/333/342/353/427/435/436/440/447/511/ 149/34 of the IPC read with Section 3 of the PDPP Act vide order, dated 23.03.2023. Thereafter, it is seen, no P.W. is examined till date. There is a list of 22 accused persons and 71 numbers of prosecution witnesses and a large number of documents.

Some of the co-accused persons have already been enlarged on bail vide orders, dated 27.02.2023 passed in B.A. Nos. 3370/2023 and 356/2023; orders, dated 03.05.2023 passed in B.A. No.1199/2023, 1214/2023 and 1356/2023.

In view of the above reasons and maintaining parity in orders and further, the length of detention as well as there being 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 each of the accused petitioners, named above, shall be released on bail of **Rs.1,00,000/- (Rupees One Lakh)** only

with **2(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;

ii) That the accused petitioners shall not directly or indirectly make any inducement, threat or promise to any of the listed witnesses of the charge-sheet; and

iii) That the accused petitioners shall refrain from committing any similar offences in future of which they are accused or suspected of commission.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant