

GAHC010091842023



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

Case No. : Bail Appln./1547/2023

KANANJAY ARJYA @ LAMAMKAU ARJYA AND ANR
S/O MRITYUNJAY ARJYA
R/O VILL- ATHIABARI, P.S. BARPETA ROAD,
DIST. BARPETA, ASSAM

2: KALPANA ARJYA
W/O MRITYUNJAY ARJYA
R/O VILL- ATHIABARI
P.S. BARPETA ROAD
DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS. B GOGOI

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

17.05.2023

1. Heard Ms. B. Gogoi, learned counsel for the petitioners as well as Mr. P.S. Lahkar,

learned Addl. P.P. for the State respondent.

2. This application under Section 439 Cr.P.C, is preferred by the petitioners, namely, Kananjay Arjya @ Lamamkau Arjya and Kalpana Arjya. The petitioner no. 1 is in judicial custody since 17.12.2022 and the petitioner no. 2 is in judicial custody since 27.02.2023 in connection with Gobardhana P.S. Case No. 68/2020, registered under Sections 143/147/148/149/447/436/326/302 IPC.

3. I have considered the submissions at the Bar with circumspection and I have also perused the scanned copies of the LCR.

4. The FIR unfolds that Subhadra Das and Haradhan Das were killed by the accused named in the FIR. During investigation as the petitioners were being searched by the police, the petitioners surrendered before the Court and they have been behind bars since then. Now, charge-sheet has been laid against the petitioners. It is submitted that the petitioners will co-operate with the trial and they will not evade appearance.

5. The learned Addl. P.P. has raised serious objections stating that the petitioners may tamper with the evidence and the offence alleged against them is of heinous nature. The allegation against them is that they have committed murder of two individuals.

6. I have considered the submissions at the Bar with circumspection. It is submitted that there are as many as 25 accused in this case. The trial is being delayed, as the accused are not appearing at the same time for consideration of charge. The petitioner no. 1 has been in jail for 152 days and the petitioner no. 2 is behind bars for 86 day.

7. I have considered the submissions that the petitioners have pledged to co-operate with the trial. Trial is yet to commence. The petitioners are local resident and they are not a flight

risks.

8. Considering all aspects, petition is allowed.

9. The petitioners are to be enlarged on bail of Rs. 50,000/- each with a suitable surety of like amount to the satisfaction of learned trial Court,

under the conditions that:-

- (i) the petitioners will refrain from such activities with which they are alleged,
- (ii) the petitioners will not leave jurisdiction of the Court without prior permission till completion of the trial.
- (iii) the petitioners will not exercise threats to the witnesses and they will co-operate with the investigation, failing which bail order of the petitioners will be cancelled.

JUDGE

Comparing Assistant