

GAHC010096432023



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

Case No. : Bail Appln./1588/2023

AINUDDIN ALI AND ANR
S/O- SABUR ALI,
VILLAGE- NAGARBERA BAKHURADIA,
P.S.- NAGARBERA, DIST.- KAMRUP(R),
ASSAM.

2: MAFIDUL ISLAM
S/O- HANIF ALI
VILLAGE 1 NO. BAKHURADIA
P.S.- NAGARBERA
DIST.- KAMRUP(R)
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MS A BEGUM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

17-05-2023

Heard Ms. A. Begum, learned counsel for the petitioners and Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC the petitioners, namely, **1) Ainuddin Ali** and **2) Mafidul Islam** are seeking bail in Hatigaon P.S. Case No.108/2023 registered under Sections 379 IPC wherein, they were arrested on 05.04.2023 and since then, they are in custody.

The informants are students and are from Tawang, Arunachal Pradesh, presently residing at Banphool Path, House No.12, Archcon Court, Tower No.12 under Hatigaon Police Station in the District of Kamrup (Metro).

On 16.03.2023, they lodged a written complaint before the Officer-in-charge of Hatigaon Police Station stating that on the night of 15.03.2023 around 11:30 pm their two wheeler bikes with Registration No.AS-01/FL-2378-Thunder 350 and AS-01/FH-6779-KTM250 were stolen from their apartment, wherein, their bikes were parked.

Accordingly, Hatigaon P.S. Case No. 95/2023 under Section 379 IPC was registered on the basis of the said FIR of the informants dated 16.03.2023.

One of the stolen bike bearing Registration No. AS-01/FH-6779-KTM250 of one of the informant Passang Tamang was recovered on 19.03.2023 around 8:40 pm at Khanka Bridge, Hatigaon in a deserted condition. However, the other bike bearing Registration No.AS-01/FL-2378-Thunder 350 is yet to be recovered.

The petitioners were earlier arrested on 29.03.2023 for similar offences in connection with said Hatigaon P.S. Case No.95/2023 and were at Central Jail, Guwahati. A coordinate Bench of this Court by order dated 08.05.2023, passed in BA

No.1372/2023 released both the petitioners on bail considering their length of detention in custody in said Hatigaon P.S. Case No.95/2023.

While both the accused petitioners were in custody in said Hatigaon P.S. Case No.95/2023, they were shown arrested on 05.04.2023 in the present Hatigaon P.S. Case No.108/2023 under Section 379 IPC for similar offences.

Perused the FIR as well as the relevant case diary placed before the Court today by Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam.

In the case in hand, the petitioners were arrested on 05.04.2023, but the case diary placed before the Court does not show anything about their involvement in the alleged crime on the night of the incident, except the CDR report regarding their presence.

Considering the above and the period of detention of the petitioners in custody since 05.04.2023, the Court is of the view that further custodial detention of the petitioners are not warranted to investigate the said Hatigaon P.S. Case No. 108/2023. As such, this bail application of the petitioners in said Hatigaon P.S. Case is accepted.

Accordingly, the petitioners, namely, **1) Ainuddin Ali** and **2) Mafidul Islam**, be released on bail in said Hatigaon P.S. Case No. 108/2023, on furnishing a bail bond of Rs.40,000/- each, with 2 (two) local sureties each, of the like amount, to the satisfaction of the learned Chief Judicial Magistrate Kamrup (Metro) on conditions that the petitioners shall – **(i)** shall appear before the Investigating Officer of said Hatigaon P.S. Case No. 108/2023 as and when they are required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of the Hatigaon Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** they 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 them from disclosing such facts to the Court or to any police officer, failing which, the bail

granted to them in the aforesaid Hatigaon P.S. Case No. 108/2023 shall stand automatically vacated.

Return the case diary herewith.

Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant