

GAHC010109972023



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

Case No. : Bail Appln./1814/2023

BASHAR ALI AKAND AND ANR
S/ MOYEN ALI AKAND
VILL-PACHIM BILASPUR
P.S. KAJALGAON,
DIST. CHIRANG, ASSAM

2: ROSHIDUL ALI
S/OLT. JAMAL ALI
VILL- BHAWRAGURI
P.S. BIJNI
DIST. CHIRANG
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D SARMAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

06-06-2023

Heard Mr. D. Sarmah, 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) Bashar Ali Akand** and **2) Roshidul Ali**, are seeking bail in Bijni P.S. Case No.62/2023 registered under Sections 120(B)/398/399/400/402 IPC, wherein, they were arrested on 30.04.2023 and since then, they are in custody.

As per the FIR of the case dated 27.04.2023, on receipt of specific information that a gang of dacoits are planning to execute a dacoity incident on 26.04.2023 at night at Bhowraguri under the area of Ballamguri Police Outpost under Bijni Police Station and accordingly, on the same day, at around 11:00 pm police party conducted a special Naka Checking on the PWD road at Bhowraguri Chowk. During such checking two suspected vehicles bearing Registration Nos.AS-19/D-7473 (Mahindra Xylo, White Colour) and AS-19/AC-4245 (TATA Magic Goods carrier) that were coming from Oxiguri side and heading towards Bhowraguri, when signaled to stop, ignored the same and escaped from such Naka Checking. However, police managed to stop those two vehicles and the present accused persons along with others were taken into custody along with those two vehicles.

Perused the case diary produced before the Court today by Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam.

Case diary reveals that on being searched one Sword with plastic handle of about 1 feet 1 inch, one Khukri of about 1 feet 2 inch with wooden handle, one dagger of about 1 feet with plastic handle, one Screw Driver and one Pliers along with 8 mobiles and 13 sim cards including some cash amount were recovered from the possession of

the accused persons including the present petitioners.

Perused the statements of the two independent witnesses recorded under Section 164 CrPC.

Case diary indicates that one Roshidul Ali is the main leader of the gang, who is involved in various criminal cases.

Considering the materials in the case diary and the period of detention of the petitioners in custody since 30.04.2023, the Court is of the view that further custodial detention in respect of the petitioner No.1 namely, **Bashar Ali Akand** is not warranted to investigate the said Bijni P.S. Case No.62/2023. As such, this bail application of the petitioner No.1 namely, **Bashar Aki Akand** in said Bijni P.S. Case is accepted.

Accordingly, the petitioner No.1, namely, **Bashar Ali Akand**, be released on bail in said Bijni P.S. Case No.62/2023, on furnishing a bail bond of Rs.75,000/-, with 2 (two) local sureties of the like amount, to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Bijni, Chirang on conditions that the petitioner shall – **(i)** appear before the Investigating Officer of said Bijni P.S. Case No.62/2023 on every Monday during the office hours, in the week commencing from 19.06.2023 for the next 10 (ten) weeks and thereafter, as and when he is required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of the Bijni 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)** he 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 him in the aforesaid Bijni P.S. Case No.62/2023 shall stand automatically vacated.

With regard to the bail of the petitioner No.2, namely, **Roshidul Ali**, case diary

reveals sufficient incriminating materials against him regarding his involvement in the crime.

The case diary also reveals that earlier on many occasions, he led the team to commit other crimes and is away from police. Considering the above, his bail in said Bijni P.S. Case No.62/2023 at this stage stands rejected.

Return the case diary herewith.

Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant