

GAHC010122342023



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

Case No. : Bail Appln./1972/2023

SURAJ ALI AND 4 ORS
S/O LT. SAMSUDDIN, VILL MOHGHULI GAON, P.O.-SALMARA, P.S.-NORTH
LAKHIMPUR, DIST-LAKHIMPUR, ASSAM

2: MD. SARIYAT ALI
S/O LT. AJIMUDDIN
VILL MOHGHULI GAON
P.O.-SALMARA
P.S.-NORTH LAKHIMPUR
DIST-LAKHIMPUR
ASSAM

3: SARIFUL ISLAM
S/O MD. KERAMAT ALI
VILL MOHGHULI GAON
P.O.-SALMARA
P.S.-NORTH LAKHIMPUR
DIST-LAKHIMPUR
ASSAM

4: HABIJUL ISLAM
S/O LT. AMJAD ALI
VILL MOHGHULI GAON
P.O.-SALMARA
P.S.-NORTH LAKHIMPUR
DIST-LAKHIMPUR
ASSAM

5: ATABUR RAHMAN
S/O LT. SIRAJ ALI
VILL MOHGHULI 1 NO.1
P.S.-NORTH LAKHIMPUR
DIST-LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

28-06-2023

Heard Ms. S. G. Baruah, learned counsel for the petitioners and Mr. Danesh Das, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 439 CrPC, the petitioners, namely, **1) Suraj Ali, 2) Md. Sariyat Ali, 3) Sariful Islam, 4) Habijul Islam and 5) Atabur Rahman** are seeking bail in **North Lakhimpur P.S. Case No. 192/2023** registered under Sections 120(B)/489(A)489(C)/420/406 IPC corresponding to G.R. No.485/2023 in which they are in custody since 26.05.2023.

As per the FIR of the case, on 20.05.2023, an ejahar was lodged by the S.I. of Nowboicha Outpost under North Lakhimpur Police Station stating that on the basis of reliable and specific information from source the complainant, police personnel of Naoboicha Outpost, Lakhimpur along with Deputy Superintendent of Police, Headquarter, 2nd Officer of North Lakhimpur Police Station and other police officers and personnel of Narayanpur Police Station, Khelmati Police Station and North Lakhimpur Police Station proceeded to the house of one suspect Md. Abul Kalam of Mohghuli, Borgola under Naoboicha Outpost of North Lakhimpur Police Station and conducted house search during which some fake Indian currency notes of Rs. 39,000/- and one show piece of Crucified Cross of Jesus golden in colour with traces of red powder weighing about 1.783 Kgs was found wrapped in a plastic bag hidden under the cloth stand placed in the corner of the room which were seized accordingly . Further said Md. Abul Kalam was apprehended and

in his statement he named other persons involved in the said racket with him. Accordingly, the houses of Md. Ainul Hoque and Md. Ansar Ali were searched, but no such suspected materials were found during such raid and search whereas, one mobile phone was seized from the possession of Md. Aminur Rahman containing pictures of fake gold items and other audios, chat message with various persons and accordingly arrested. The same was accordingly registered as North Lakhimpur P.S. Case No.192/2023 under Section 120(B)/ 489(A)/489(C)/420/406 IPC corresponding to G.R. No.485/2023.

It is also stated by the learned counsel for the petitioners that a new Superintendent of Police took over the charge of Lakhimpur district on his transfer from Nagaon, who specified that he and the police personnel of Lakhimpur district will work relentlessly against all forms of anti-social and illegal activities, particularly targeting fake currency and fake gold, proclaiming that it is a time for some action indicating his determination to tackle the said issue. On such vow of the Superintendent of Police of the district Mr. HRA Choudhury, learned senior counsel submits that the petitioners and many others who were involved earlier in similar case surrendered themselves before police in the said **North Lakhimpur P.S. Case No. 192/2023** and accordingly they were apprehended and kept in custody since 26.05.2023.

Md. Das, learned APP stated that the co-accused from whom fake currency and fake gold was recovered and seized implicated the petitioners and the petitioner No.1 confessed that earlier he was involved in the crime along with one Badrul who died on 2017 and thereafter, he gave up his business and surrendered before police out of fear on 25.05.2023.

Mr. Das from the case diary stated that no recovery was made from him.

With regard to the petitioner No.2 case diary reveals that though he earned Rs.12,00,000/- through commission of the alleged crime along with other accused persons of the case, but no recovery was made from him and he surrendered before police.

Pertaining to petitioner No.3, Mr. Das, learned APP from the case diary stated that he is an associate of accused Abdul Kalam and that the co-accused Abul Kalam, Aainul Hoque, Isadul Alam, Ansar Ali implicated the petitioner in the case, but no fake currency or gold was recovered from him. Petitioner No.3 confessed that earlier he was involved in the crime.

Regarding Petitioner No.4, Mr. Das stated that he is an associate of accused Abul Kalam and was implicated by co-accused Abul Kalam and Isadul Alam. This petitioner confessed that he was

doing business of fake gold of statue and biscuit etc. in Delhi, Haryana, Rajasthan, Manipur and Nagaland etc. and thereby earned more than Rs. 12,00,000/- later he surrendered and no seizure was made from him.

With regard to the petitioner No.5 Mr. Das stated that it is the co-accused Sariyat Ali implicated said petitioner No.5, who confessed that earlier he was involved in the crime of fake gold but after 2016 he had given up all those and by disassociating himself from such activities. Later he surrendered and no seizure was made from him.

After hearing the learned counsels for the parties, considering the materials in the case diary and the period of detention of the petitioners in custody in said **North Lakhimpur P.S. Case No. 192/2023**, the Court is of the view that further custodial detention of the petitioners are not warranted to investigate said **North Lakhimpur P.S. Case No. 192/2023**. As such, this bail application of the petitioners in said **North Lakhimpur P.S. Case** is accepted.

Accordingly, the petitioners, namely, **1) Suraj Ali, 2) Md. Sariyat Ali, 3) Sariful Islam, 4) Habijul Islam and 5) Atabur Rahman**, be released on bail in said **North Lakhimpur P.S. Case No. 192/2023**, on furnishing a bail bond of Rs.1,00,000/-, each with 2 (two) local sureties each of the like amount, one of which shall be a Government employee (Either State or Central Government) to the satisfaction of the learned Chief Judicial Magistrate, Lakhimpur, North Lakhimpur on conditions that the petitioners shall – **(i)** appear before the Investigating Officer of said **North Lakhimpur P.S. Case No. 192/2023 on every Monday during the office hours, from the week commencing from 10.07.2023 for the next 10 (ten) weeks** and thereafter, as and when they are required for necessary investigation of the case; **(ii)** not leave the territorial jurisdiction of the **North Lakhimpur 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 **North Lakhimpur P.S. Case No. 192/2023** shall stand automatically vacated.

Further, the petitioners shall not indulge in similar offence or any other criminal offences in future; failing which, the bail granted to them in said **Lakhimpur P.S. Case No. 192/2023** shall stand automatically vacated.

Return the case diary herewith.

This Bail application accordingly stands allowed to the extent above.

JUDGE

Comparing Assistant