

GAHC010126642023



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

Case No. : Bail Appln./2051/2023

RIYAJUL ISLAM AND 2 ORS
S/O- LATE AHUD ALI, VILLAGE- ADAKHUNDA, P.S. JURIA, DIST.- NAGAON
(ASSAM), PERMANENT ADDRESS- VILLAGE- NO.1 AHMEDPUR, P.S.
BIHPURIA, DIST.- LAKHIMPUR (ASSAM)

2: MUSTAK UDDIN AHMED
S/O- LATE IMAN ALI
VILLAGE- NO.1 AHMEDPUR
P.S. BIHPURIA
DIST.- LAKHIMPUR (ASSAM)

3: MD. AJIJUR @ AJIMUDDIN
S/O- LATE MUSA MIYA
VILLAGE- NO.1 AHMEDPUR
P.S. BIHPURIA
DIST.- LAKHIMPUR (ASSAM)

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 24-07-2023

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by three numbers of petitioners, namely, (i) Riyajul Islam, who was arrested on 26.05.2023, (ii) Mustak Uddin Ahmed, who was arrested on 27.05.2023, and (iii) Md. Ajijur @ Ajimuddin, and who was arrested on 29.05.2023 in connection with North Lakhimpur P.S. Case No. 183/2023 under section 120(B)/395/397/342/387 of the Indian Penal Code.

The accusation in this case is that on 12.05.2023, one Musst. Amina Khatun, lodged an FIR, before Officer-in-Charge of North Lakhimpur Sadar Police Station, *inter-alia*, stating that the accused persons, namely, one Junmoni Rabha, SI of Police and seven others named in the FIR, including the present petitioners, had on 06.05.2023 at about 2:00 A.M. entered into the house of informant and assaulted the son of the informant namely, Azgar Ali and forcefully took him along with them and also took Rs. 80,000/-, Voter ID, PAN Card or golden ornaments from her residence. They also took one Maruti Breeza Car belonging to the informant's elder son, Md. Abu Taleb. It is further alleged in the FIR that later on, the accused persons asked the informant over telephone to bring Rs. 6,00,000/-(Rupees Six Lakhs) at the Arunachal bypass near Gohpur to get the release of the son of the informant. Accordingly, the informant collected the required amount and paid the said money to the accused no. 1. It is also stated in the FIR that out of the total amount of Rs. 6,00,000/- (Rupees Six Lakhs), an amount of Rs. 90,000/-(Rupees Ninety Thousand) was paid online to the petitioner no.1, Riyajul Islam, to his UPI Id. Later on, the accused persons threatened the son of the informant not to discuss about the incident otherwise, he would be implicated in a false case. On

receipt of the said FIR North Lakhimpur P.S. Case No. 183/2023 was registered and the Circle Inspector of Laluk Circle was entrusted with the investigation of the said case.

I have heard Mr. A.M. Ahmed, learned counsel for the petitioners. I have also heard Mr. M. Haloi, learned Special Public Prosecutor for Central Bureau of Investigation.

Learned Special Public Prosecutor has placed on record the case diary of CBI Case No. RC05020230S0003/CBI/SC.II/ND. It appears from record that this instant case was earlier handed over to CID on 16.05.2023 and later on, the said case was entrusted, on 14.06.2023, to the Central Bureau of Investigation for conducting the investigation.

Learned counsel for the petitioners has submitted that the petitioners are innocent and they were only assisting the police officer, who has been named as accused no. 1 in the FIR filed by the informant.

It is also submitted that the accused persons have been detained behind the bars since last 55 days and considering the period of detention undergone by the present petitioners, the learned counsel for the petitioners prays for allowing the present petitioners to go on bail.

On the other hand, the learned Special Public Prosecutor, Central Bureau of Investigation submits that this case was handed over to CBI only on 14.06.2023 and the investigation by CBI into the present case is in early stage. Moreover, there are incriminating materials against the present petitioners.

I have perused the case diary and have considered the submissions made by learned counsel for both sides.

Considering the fact that the present case has been entrusted to CBI along with another case in which the death of the accused no. 1 in a road

accident is also under investigation and the investigation by the Central Bureau of Investigation is in early stage and also considering the fact that there are incriminating materials against the present petitioners in the case diary placed before this Court today, this Court is of the considered opinion that this case is not a fit case at the present stage to grant bail to the present petitioners. Hence, the prayer for bail to the present petitioners is rejected at this stage.

Send back the case diary.

JUDGE

Comparing Assistant