

GAHC010132242023



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

Case No. : AB/2145/2023

RAJENDRA CH DAS AND 2 ORS
S/O SUKUAR DAS VIL. NIZ MONIRCHAR P.S SOUTH SAKMARA DIST.
SOUTH SALMARA MANKACHAR ASSAM PIN 783127

2: GAZI RAHMAN
S/O KAFLI UDDIN VILL. MONIRCHAR MOTHERER CHAR P.S SOUTH
SAKMARA DIST. SOUTH SALMARA MANKACHAR ASSAM PIN 783127

3: NUR ALOM
S/O KAFIL UDDIN VILL. MONIRCHR MOTHERER CHAR P.S SOUTH
SAKMARA DIST. SOUTH SALMARA MANKACHAR ASSAM PIN 78312

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

11.08.2023

Heard Mr. A. Ahmed, learned counsel for the petitioners. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, appearing for the State of Assam.

This anticipatory bail application has been filed under section 438 of the Code of Criminal Procedure, 1973 by the petitioners, namely, (1) Rajendra Ch. Das, who is the President of Bharatiya Gau Raksha Vahini, South Salmara, Mankachar, (2) Gazi Rahman, who is the Secretary of the said Gau Raksha Vahini, and (3) Nur Alom, who was the Cashier of the Gau Raksha Vahini and they have filed this instant application apprehending their arrest in connection with Sukchar P.S. Case No. 84/2023 under section 120(B)/406/379 of Indian Penal Code.

It appears from record that by order dated 28.06.2023, the above named petitioners were granted interim anticipatory bail of Rs. 20,000/- each with one surety of like amount with the condition that they shall co-operate with the Investigating Officer.

Learned counsel for the petitioners has submitted that in pursuant to the said order the petitioners have appeared before the Investigating Officer of Sukchar P.S. Case No. 84/2023 and have co-operated in the investigation and therefore, prays for making the interim bail absolute.

On the other hand, learned Additional Public Prosecutor has opposed the prayer for making the interim bail absolute on the ground that though the petitioners have appeared before the Investigating Officer in pursuant to the

order of this Court, however, the Investigating Officer of Sukchar P.S. Case No. 84/2023 has reported that the present petitioners are not co-operating in the investigation and they need to be examined carefully in police custody.

I have considered the submissions made by learned counsel for both sides as well as perused the materials available on record including the case diary Sukchar P.S. Case No. 84/2023 and the written bail objection filed by the Investigating Officer of the case.

The case under investigation pertains to missing of cattle in various Go-Shala and pounds in the district of South Salmara which were sent there on the strength of custody orders issued by Court for a long period of time and same requires thorough investigation. However, considering the fact that the petitioners have appeared before the Investigating Officer in pursuant to the direction of this Court's order dated 28.06.2023 and are ready to appear again as and when so required by the Investigating Officer, and have also stated that whatever documents were there in their possession they have revealed the same to the Investigating Officer, mere statement of the Investigating Officer to the effect that they are not co-operating in investigation without disclosing anything regarding the nature of non-cooperation by the present petitioners would not justify cancellation of the interim anticipatoy bail granted to them by this Court. There is no allegation against the present petitioners that they are either threatening the witnesses or have tampered the evidence involved in this case. Neither there is any allegation against them that they have not appeared before the Investigating Officer when they were asked to do so for the sake of fair investigation. Mere suspicion that they may tamper the evidence is not sufficient without their being anything on record which suggests that any such attempt has been made or there is any likelihood of such an attempt by the

petitioners while they were on bail. Further, there is also nothing to show that they would jump bail if granted.

After going through the materials in the case diary, this Court is of the considered opinion that if the present petitioners co-operate with the Investigating Officer, their custodial detention may not be necessary. Hence, the interim anticipatory bail granted to the present petitioners, namely, 1) Rajendra Ch. Das, (2) Gazi Rahman and (3) Nur Alom is made absolute is hereby made absolute with following conditions that:-

- (i) they shall appear before the Investigating Officer of Sukchar P.S. Case No. 84/2023 again within a period of 7(seven) from the date of this order and shall continue to do so as and when required by the Investigating Officer for the sake of fair investigation of the Sukchar P.S. Case No. 84/2023;
- (ii) 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 him or her from disclosing such facts to the Investigation Officer of Sukchar P.S. Case No. 84/2023 or to any Court;
- (iii) they shall not attempt to tamper any documentary evidence and other evidence connected with the case;
- (iv) they shall not leave the jurisdiction of South Salmara district without prior leave of learned Chief Judicial Magistrate, South Salmara and intimation to the Investigating Officer of Sukchar P.S. Case No. 84/2023 during pendency of the investigation of Sukchar P.S. Case No. 84/2023; and
- (v) any violation of the aforesaid order be a good ground of cancellation of the anticipatory bail granted to the present petitioners.

With the above observations, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant