

GAHC010135962023



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

Case No. : Bail Appln./2174/2023

MOHIDUL ISLAM AND ANR.
S/O LT. NAUSHAD ALI R/O VILL. KABAI TARI P.S JOGIGHOPA DIST
BONGAIGAON ASSAM

2: ESHOB ALI @ ESOB ALI
S/O AKTAR ALI R/O VILL. KABAI TARI P.S JOGIGHOPA DIST.
BONGAIGAON ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 20.07.2023

Heard Mr. D. Bora, learned counsel for the petitioners. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This is an application under Section 439 of the Code of Criminal Procedure, 1973 filed by the petitioners, namely, *1. Mohidul Islam, 2. Eshob Ali @ Esob Ali,*

who have been detained behind the bars since 07.05.2023 (74 days) in connection with Patacharkuchi P.S. Case No. 228/2023 under Section 120(B)/379/411/413 of the Indian Penal Code.

The accusation in this case is that on 06.05.2023, one Sasanka Das, ASI of Police, lodged an FIR before the Officer-in-Charge of Patacharkuchi Police Station, *inter alia*, alleging that on getting information to reliable source one truck bearing Registration No. NL-01-AG-1530 was intercepted at National Highway No. 27 in front of Bhawanipur Police Out Post and the said truck was searched and it was found that it was carrying 200 bags suspected Burmese areca nuts (Supari). When the driver and handyman of the said trucks were apprehended and asked to produce the document, they fail to do so. On receipt of Patacharkuchi P.S. Case No. 228/2023, was registered.

Learned counsel for the petitioner submits that the petitioner No. 1 is the driver of the seized truck and as well as petitioner No. 2 was the handyman of the seized truck and they were unaware as regards the ownership of the seized areca nuts. It is also submitted that they are detained behind the bar since 74 days and considering the length of detention, their bail should be considered.

Learned Additional Public Prosecutor submits that the investigation of Patacharkuchi P.S. Case No. 228/2023 is still going on. However, no one has claimed the seized areca nuts. It is also submitted that the statements of the present petitioners have already been recorded under Section 161 of Cr.P.C.

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

Considering the fact that the present petitioners were only the driver and handyman respectively of the seized truck and also considering the fact that

their statements are already recorded, their further custodial detention does not appear to be not necessary for fair completion of the investigation of Patacharkuchi P.S. Case No. 228/2023, if they continue to cooperate with the Investigation Officer.

In view of above, the petitioners, namely, *1. Mohidul Islam, 2. Eshob Ali @ Esob Ali*, are allowed to go on bail of Rs.20,000/- (Rupees Twenty thousand) only each with one surety of like amount to the satisfaction of learned Chief Judicial Magistrate, Bajali with condition that the petitioners shall continue to cooperate with the Investigating Officer of Patacharkuchi P.S. Case No. 228/2023.

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

JUDGE

Comparing Assistant