

GAHC010137222023



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

Case No. : Bail Appln./2233/2023

RUPAN DEBNATH @ RUPAN DEVNATH AND 2 ORS.
SON OF RABEN DEBNATH
R/O VILL- FAKIRAGRAM
(PURANI BAZAR) P.S. FAKIRAGRAM
DIST. KOKRAJHAR, ASSAM

2: ABUL SATTAR SHEIKH @ SATTAR SHEIKH
S/O LATE USMAN SHEIKH
R/O VILL- NAYACHARA
CHITHILA
P.S. FAKIRAGRAM
DIST. KOKRAJHAR
ASSAM

3: NIL KUMAR DAS @ NIL KUMAR
S/O LATE RASHID CH. DAS

R/O VILL- DAKSHIN
MAJID KHANA
P.S. SAMUKTOLA
DIST.ALIPURDUAR WEST BENGAL

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B K MAHAJAN

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 30.06.2023

Heard Mr. B. K. Mahajan, learned counsel for the petitioners. Also heard Mr. D. P. Goswami, learned Additional Public Prosecutor for the State.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of petitioners, namely, (1) Rupan Debnath @ Rupan Devnath (2) Abul Sattar Sheikh @ Sattar Sheikh and (3) Nil Kumar Das @ Nil Kumar, in connection with Bongaigaon Police Station Case No. 231/2023 under Section 143/448/325 of the Indian Penal Code, read with Section 3(1)(x) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added Section 120(B)/354/354(B)/307 of the Indian Penal Code.

The petitioner no. 1, Rupan Debnath @ Rupan Devnath was arrested on 04.06.2023 whereas other two petitioners were arrested on 08.06.2023 in connection with Bongaigaon Police Station Case No. 231/2023.

The accusation in this case is that one Chhedi Paswan, on 03.06.2023, lodged an FIR before the Officer-in-Charge of New Bongaigaon Police Post on 03.06.2023, *inter alia*, alleging that seven numbers of accused persons including the present petitioners trespassed into the Railway Residential Colony Quarter of the first informant and had altercation with son of the first informant.

It was alleged that the accused persons named in the FIR assaulted the first informant, his wife and his daughter and caused bodily injury to them. It was also alleged that they tore the clothes of the daughter of the first informant and the wife of the first informant and tried to outrage their modesty and used obscene language and also called the present petitioners as members of

Schedule Caste community and lower caste and intimidate his son that they will shoot him and other family members to death.

On receipt of the said FIR, Bongaigaon Police Station Case No. 231/2023 was registered.

Mr. B. K. Mahajan, learned counsel for the petitioners submits that there was an altercation between two groups and the present petitioners also lodged an FIR against the other group on 03.06.2023, which was registered as Bongaigaon Police Station Case No. 232/2023 under Section 419/384/427/506 of the IPC.

Learned counsel for the petitioners also submits that though Section 31 (x) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been added to the case registered against the present petitioners, however, on cursory perusal of the said provision, it appears that the said provision of law is applicable only one corrupts or fouls the water of any spring, reservoir or any other source of water used by the members of the Schedule Castes and Scheduled Tribes which is not the case in the present case.

Learned counsel for the petitioners also submits that the allegation against the present petitioners in the FIR is only that they threatened to kill which does justify invoking the section 307 of the IPC.

Learned counsel for the petitioner also submits that the petitioners have been behind the bar for more than 28 days in case of petitioner no. 1 and 24 days in case of other two petitioners.

On the other hand, Mr. D. P. Goswami, learned Additional Public Prosecutor fairly submits that on perusal of the case diary materials under Section 31 (x) of Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not found. He also submits that the injury report of the

injured shows that the injury caused to them is of simple nature which is caused by blunt weapon.

It is also submitted by the learned counsel for the petitioner that the investigating officer has already recorded the statement of witnesses and the investigation has fairly progressed.

I have perused the case diary.

Considering the submissions of learned counsel for both sides, progress made by the investigating officer in the investigation of the case and period of detention already undergone by the present petitioners, further custodial detention of the present petitioners does not appear to be necessary for fair completion of the investigation of Bongaigaon Police Station Case No. 231/2023. In view of the above, the present petitioners, namely, (1) Rupan Debnath @ Rupan Devnath (2) Abul Sattar Sheikh @ Sattar Sheikh and (3) Nil Kumar Das @ Nil Kumar, are hereby allowed to go on bail on furnishing of bail bond of Rs. 20,000/- (Rupees Twenty Thousand only) each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Bongaigaon, with a condition that after obtaining bail, the petitioners shall co-operate with the investigation of Bongaigaon Police Station Case No. 231/2023.

This bail application is accordingly disposed of.

JUDGE

Comparing Assistant