

GAHC010143222023



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

Bail Appln./2295/2023

ALKASH ALI AND 2 ORS.
S/O MAJIT ALI
R/O VILL- KURIHAMARI
P.O. BHANGNAMARI
P.S. SIALMARI
DIST. NALBARI
ASSAM
PIN-781126

2: MAJIT ALI
S/O LT. KASHEM ALI
R/O VILL- KURIHAMARI
P.O. BHANGNAMARI
P.S. SIALMARI
DIST. NALBARI
ASSAM
PIN-781126

3: JIARUL HAQUE
S/O ISAN ALI
R/O VILL- KURIHAMARI
P.O. BHANGNAMARI
P.S. SIALMARI
DIST. NALBARI
ASSAM
PIN-781126
VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. A SARMA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

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

ORDER

20.07.2023

Heard Mr. Lentro, learned counsel for the petitioners. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor appearing for the State of Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 is preferred by the petitioners, namely, (1) Alkash Ali, (2) Majit Ali and (3) Jiarul Haque, who has been detained behind the bars since 20.06.2023 (last 30 days), in connection with Sialmari P.S. Case No. 40/2022 under section 147/148/149/448/325/326/436/427 of the Indian Penal Code.

The accusation against the present petitioner is that on 19.09.2022, one Momotaj lodged an FIR before the Officer-in-Charge of Sialmari Police Station, *inter-alia* alleging that 27 numbers of accused persons including the present petitioners armed with sticks, daggers, axes, daos etc. On 19.09.2022, at about 8:00 A.M., criminally trespassed into the house of the first informant and assaulted the father of the first informant with sharp weapons causing grievous injuries to him. Thereafter, the assailants also set on fire the house of the informant causing damage to and other properties. On receipt of the said FIR, Sialmari P.S. Case No. 40/2022 was registered.

Learned counsel for the petitioners also submits that the facts are

mentioned in an exaggerated form in the FIR. Though the present petitioners was there at the place of occurrence he is innocent.

It is also submitted that all other co-accused except the present petitioners and three others have already been granted bail by this Court.

Learned Additional Public Prosecutor who places the case diary which was called for before this Court submits that from the injury report it appears that the father of the informant suffered only simple injuries.

It is also submitted that there are materials on record in the case diary suggesting that the present petitioners were involved in persons.

I have heard the submissions made by learned counsel for both sides and also considered the materials placed before this Court including the case diary. Considering the fact that out of 27 accused named in the FIR 23 are already granted bail as well as also considering the fact that the present petitioners have already undergone detention for last 30 days in connection with the said case, their further custodial detention of the present petitioners does not appear to be necessary for sake of completion of the fair investigation of Sialmari P.S. Case No. 40/2022.

In view of above, the petitioners, namely, (1) Alkash Ali, (2) Majit Ali and (3) Jiarul Haque, are allowed to go on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Nalbari, subject to the conditions that (i) the petitioners shall co-operate with the investigation and shall make themselves available before the Investigating Officer as and when so required by the Investigating Officer for the sake of investigation and (ii) the petitioners 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 Court or to any police

officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.

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

JUDGE

Comparing Assistant