

GAHC010152792023



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

Case No. : Bail Appln./2443/2023

SWMKHWB BASUMATARY AND 3 ORS
S/O SRI KUNJA BASUMATARY
R/O VILL- DWIMGURI
P.S. GOHPUR
DIST. BISWANATH, ASSAM

2: BISHWAJAY MUCHAHARY
S/O SRI KARMESWAR MUCHAHARY
R/O VILL- GANDHIBILL
P.S. GOHPUR
DIST. BISWANATH
ASSAM

3: BIPUL BASUMATARY @ KARDEI
S/O SRI ANGAL BASUMATARY
R/O VILL- NO. 1 NARENGBARI
P.S. GOHPUR
DIST. BISWANATH
ASSAM

4: SOHEN GOYARY
S/O SRI MONDAL GOYARI
R/O VILL- DWIMGURI
P.S. GOHPUR
DIST. BISWANATH
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 18.07.2023

Heard Ms. J. Singpho, 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 petitioner, namely, *1. Swmkhwr Basumatary 2. Bishwajay Muchahary, 3. Bipul Basumatary @ Kardei and 4. Sohen Goyary*, who are detained behind the bar since last 74 days (06.05.2023) in connection with Gohpur P.S. Case No. 90/2023 under Sections 120(B)/366/376(D)/511/384/385/294 of the Indian Penal Code.

The accusation in this case is that on 05.05.2023, the victim lodged an FIR before the Officer-in-Charge of Howajan Police Out Post under Gohpur Police Station, *inter alia*, alleging that on 02.05.2023, the victim was picked one Raghu Basumatary in a Blue Color BREZZA Vehicle and along with five of his friends made obscene videos of the first informant and also tried to molest the first informant, thereafter, demanded money. It is also alleged in the FIR that on 03.05.2023, the said Raghu Basumatary again kidnapped the victim and took her to Arunachal Pradesh in the same vehicle and later on she was recovered by her family members on 04.05.2023. On receipt of the said FIR, Gohpur P.S. Case No. 90/2023 was registered.

Learned counsel for the petitioners submit that the victim and one of her friend was found in compromising position inside a vehicle and out of curiosity, the present petitioners peeked into the said vehicle and she has lodged the false FIR only to save her image in the society.

I have heard the learned Additional Public Prosecutor who has placed the case diary and submits that there are incriminating materials against the present petitioners in the case diary.

I have perused the case diary.

Though, there are incriminating materials against the present petitioners in the case diary, however, considering the fact that the present petitioners are detained behind the bar for last 74 days, their continued detention may not be necessary for fair completion of the investigation of Gohpur P.S. Case No. 90/2023.

In view of above, the petitioners, namely, *1. Swmkhwr Basumatary 2. Bishwajay Muchahary, 3. Bipul Basumatary @ Kardei and 4. Sohen Goyary*, are hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) only each with one surety of like amount to the satisfaction of learned SDJM, Gohpur, subject to the condition:-

- (i) that they shall cooperate in their trial before the Trial Court and shall appear before the Trial Court as and when so directed by the learned SDJM, Gohpur.
- (ii) that the petitioners shall cooperate with the Investigating Officer as well as 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 from disclosing such facts before the trial court.

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

JUDGE

Comparing Assistant