

GAHC010153342023



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

Case No. : Bail Appln./2476/2023

BIRU KAR @ BIRU CHANDRA KAR AND ANR
S/O- LATE RAMEN CHANDRA KAR, R/O- BIHUBOR GARMUR MIRI GOAN,
P.O. AND P.S. BIHUBOR, DIST. SIVASAGAR, PIN- 785687.

2: AMAR DUTTA
S/O- SRI MINTU DUTTA
R/O- BIHUBOR GARMUR MIRI GOAN
P.O. AND P.S. BIHUBOR
DIST. SIVASAGAR

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P., ASSAM

Advocate for the Petitioner : MR P KATAKI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 08.08.2023

Heard Mr. P. Kataki, learned counsel for the accused/petitioners. Also
heard Ms. S.H. Bora, learned Additional Public Prosecutor for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioners, namely, **Biru Kar @ Biru Chandra Kar and Amar Dutta**, in connection with **Bihubor P.S. Case No. 10/2023**, registered under Section **341/143/307 IPC**.

It is submitted by the learned counsel for the petitioners that except Section 307 IPC, the other offences are bailable in nature. As per FIR, there is no allegation that the petitioners had attacked the informant/injured by any such weapon for which the offence falls under Section 307 IPC. It is also submitted that in the FIR, it has been stated that on the day of the incident, when the informant was returning home from Bihubor vegetable market, one of the petitioners Biru Kar along with six other persons tried to kill him. Learned counsel for the petitioners further submitted that the petitioners have been detained in custody since 09.07.2023 and 08.07.2023 respectively. It is also stated that the petitioner No. 1 has also filed an FIR against the informant regarding non-payment of fare of his vehicle and the informant also threatened to kill the petitioner. Considering the period of detention as well as the fact, the prayer for bail may be considered.

On the other hand, Ms. Bora, learned Additional Public Prosecutor for the State has opposed in granting bail to the accused/petitioners. It is also submitted that case diary has been received without injury report. It is further submitted that the petitioners attacked the informant with a key of a bike as a result of which, he sustained injuries on his head and neck. As the injury report is not available in the case diary, the prayer of the accused/petitioners may not be considered at this stage.

I have considered the submissions made by the learned counsel for

the parties.

Considering the period of detention as well as the fact as reflected in the case diary, this Court is of the view that further custodial interrogation of the accused-petitioners is not necessary. Hence, the prayer for bail is allowed.

Accordingly, the accused-petitioners, named above, shall be released on bail in connection with **Bihubor P.S. Case No. 10/2023**, registered under Section **341/143/307 IPC**, on furnishing bail bond of **Rs.20,000/- each** with **one suitable surety each** of the like amount to the satisfaction of learned SDJM, Nazira, Sivasagar, Assam.

The direction for bail is further subject to the conditions that the accused-petitioners:

(a) shall not leave the territorial jurisdiction of learned SDJM, Nazira, Sivasagar, Assam without prior written permission from him/her;

(b) 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 to the Court or to any police officer;

In terms of the above, this bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant