

GAHC010161172023



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

Case No. : Bail Appln./2579/2023

SENSING GAUR AND 6 ORS.
S/O LATE GULAP GAUR
R/O VILL- RAIMAPUR
P.S. DOKMOKA,
DIST. KARBI ANGLONG, ASSAM
PIN-782441

2: TARJEN GAUR
S/O SRI KAILASH GAUR
R/O VILL- RAIMAPUR
P.S. DOKMOKA

DIST. KARBI ANGLONG
ASSAM
PIN-782441

3: RAMADHAR GAUR
S/O PHULSING GAUR
R/O VILL- RAIMAPUR
P.S. DOKMOKA

DIST. KARBI ANGLONG
ASSAM
PIN-782441

4: BHOKSING GAUR
S/O MANSING GAUR
R/O VILL- RAIMAPUR
P.S. DOKMOKA

DIST. KARBI ANGLONG
ASSAM
PIN-782441

5: SITARAM UJIR
S/O LATE KRISHNA UJIR
R/O VILL- RAIMAPUR
P.S. DOKMOKA

DIST. KARBI ANGLONG
ASSAM
PIN-782441

6: SITARAM GAUR
S/O LATE SANKAR GAUR
R/O VILL- RAIMAPUR
P.S. DOKMOKA

DIST. KARBI ANGLONG
ASSAM
PIN-782441

7: BABURAM GOWALA
S/O LATE DHANU GOWALA
R/O VILL- RAIMAPUR
P.S. DOKMOKA

DIST. KARBI ANGLONG
ASSAM
PIN-78244

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

25.08.2023

Heard Mr. A.I. Uddin, learned counsel for the accused petitioners. Also

heard Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the accused petitioners, namely **1) Sensing Gaur 2) Tarjen Gaur 3) Ramadhar Gaur 4) Bhoksing Gaur 5) Sitaram Ujir 6) Sitaram Gaur and 7) Baburam Gowala** have prayed for grant of bail in connection with **Sessions Special Case No.02/2020** pending in the Court of learned Special Judge, Karbi Anglong, Diphu **(corresponding to G.R. Case No.349/2020)** arising out of **Dokmoka P.S. Case No.32/2020** registered under Sections **120B/143/341/354/323/302/201** of the IPC read with Section **5** of the Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015.

The scanned copy of case record, as called for, is placed before the Court.

The allegation made in the FIR is that on 30.09.2020 at about 8 p.m., the funeral ceremony of the granddaughter of the Gaobura of Village Rohimapur was going where a large number of people were present. At about 8.30 p.m., one Jonali Gaur, the niece of the Gaonbura fell down on the ground raising alarm while she was grooming the courtyard of the house. At that time, the village *Pujari*, Mansing Gaur clutched her with a fishing net and asked as to who has sent her to the village and she loudly mentioned the name of the informant's mother and one Bijay Gaur and told that they will destroy the whole village by sending 'witch' and kill everyone in the village. Some persons of the village being armed with lathi, wooden piece, stone and dao etc. assembled and dragged the informant's mother from her house to the house of one Kailash Gaur and thereafter cut their neck. When the informant tried to rescue them, one Dipak, Nagamise and Rajib Gowala attempted to outrage her modesty and that of her elder sister, but somehow they fled away. Thereafter, the accused

persons tied the informant's mother and Bijay Gaur with a bamboo and burnt them down at Rohimapur cremation ground.

It is noticed that the accused petitioners have been in judicial custody since October, 2020.

A perusal of the case record reveals that the learned trial Court has put the trial of the case on fast track vide order, dated 06.06.2023. The charges were framed under Sections 143/117/302/201/120B/323/341/354/149 of the IPC read with Section 5 of the Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015 vide order, dated 04.01.2021. It is further noticed that in the incident 2 (two) persons were allegedly murdered and two persons were assaulted and outraged their modesty. Therefore, the case is of serious nature.

There is a list of 19(nineteen) accused persons and 42(forty two) listed witnesses in the charge-sheet. Out of the aforesaid 42(forty two) P.Ws, the learned trial Court has examined 25(twenty five) number of P.Ws till 16.08.2023. Thus, the case is presently pending for further evidence of the prosecution side.

Having considered the fact that prima facie vital witnesses of the prosecution side being examined and the remaining prosecution witnesses having not turned up for adducing their evidence despite adjournments are frequently granted, there is no possibility of early disposal of the case and as such, the accused petitioners' further continuation of detention for the purpose of remaining part of trial of the case may not be required.

Accordingly, it is provided that each of the accused petitioners, named above, shall be released on bail of **Rs.40,000/- (Rupees Forty Thousand)** **only** with two sureties of like amount to the satisfaction of the learned **Special**

Judge, Karbi Anglong at Diphu subject to the following conditions-

- i) That the accused petitioners shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of;
- ii) That the accused petitioners shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court; and
- iii) That out of the two sureties, one must be a government servant subject to verification of the relevant documents, if deemed necessary and after such verification, the learned Court below shall return the original documents retaining legible scanned copy thereof on record for future reference.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

This disposes of the bail application.

JUDGE

Comparing Assistant