

GAHC010177232022



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

Case No. : AB/2554/2022

ASFAK KHAN AND ANR
S/O- MR. FORIUDDIN KHAN, R/O- C.D.ROAD, WARD NO.3, P.O. AND P.S.
NORTH LAKHIMPUR, DIST.- LAKHIMPUR, ASSAM, PIN- 787001, M.NO.
8720980515

2: IFTIKAR KHAN
S/O- MR. FORIUDDIN KHAN
R/O- C.D.ROAD
WARD NO.3
P.O. AND P.S. NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 787001
M.NO. 872098051

VERSUS

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

Advocate for the Petitioner : MR. P D NAIR

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 24-11-2023

Heard Mr. P.D. Nair, learned counsel for the petitioners. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State of Assam.

By order dated 08.11.2023, learned Additional Public Prosecutor was requested to seek instructions from the Investigating Officer as to whether the present petitioners have appeared before the Investigating Officer or not.

On the other hand, the petitioners were allowed to submit an additional affidavit bringing on record, the fact regarding their appearance before the Investigating Officer in pursuant to the directions of this Court.

It appears from the records that on 23.11.2022, both the petitioners, namely, 1. Mr. Asfak Khan and 2. Mr. Iftikar Khan were allowed to go on interim anticipatory bail by this Court, and learned counsel for the petitioners has submitted that in pursuant to the said directions, the petitioners have appeared before the Investigating Officer on 29.11.2022 and they were also interrogated by the then Investigating Officer, namely, Lakhi Nandan Borah and in support of the said contention, learned counsel for the petitioners has pointed out towards the additional affidavit where the main statement is made on oath by the present petitioners.

It is also pointed out by the learned counsel for the petitioners that after passing of the order dated 23.11.2022 by this Court, the petitioners applied for certified copy of the said order by filing Application No. 550259 dated 25.11.2022 and in pursuant to the said application, the certified copy was furnished to them by the Registry of this Court.

Learned counsel for the petitioners has submitted that copy of the said certified copy was furnished to the Investigating Officer by the petitioners on their appearance before him on 29.11.2022.

Learned counsel for the petitioners has also annexed along with additional affidavit as Annexure No. A/2, A/3 and A/4 certain snapshots, wherein the petitioners appear to be awaiting in a Police Station and the metadata shown in the said photographs shows the time as 3:17 PM on 29th November, 2023.

Learned counsel for the petitioners has also pointed out towards an affidavit submitted by the counsel for the petitioners at Jorhat, namely, Gautam Borah, who had accompanied the petitioners on 29.11.2022.

On the other hand, learned Additional Public Prosecutor has submitted that though initially there was no statement of the petitioners found in the case diary, however, later on, 09.11.2023, the statement of the present petitioners have been recorded by the present Investigating Officer, namely, Ranjan Saikia.

It appears from the case diary that a copy of the certified copy of the order dated 23.11.2022 which was obtained by the present petitioners is available in the case diary and as the petitioners have appeared before the Investigating Officer again on 09.11.2023, it appears that the present petitioners have complied with the directions of this Court and have co-operated with the Investigating Officer. As the present petitioners have co-operated in the investigation, their custodial detention does not appears to be necessary for fair completion of the investigation at this stage.

Hence, the interim anticipatory bail granted to the above named petitioners, by order dated 23.11.2022 is hereby made absolute with condition Nos. 2 and 3 attached to the said order remaining intact.

With the above observation, this anticipatory bail application is hereby

disposed of.

Send back the case diary.

JUDGE

Comparing Assistant