

GAHC010183682023



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

Case No. : Bail Appln./3017/2023

MULUNG @ MULUG SWARGIARY AND ANR
S/O TAEN SWARGIARY R/O SASTRAPARA P.O. MURMILA P.S TANGAL DIST.
UDALGURI ASSAM

2: DIPEN BORO
S/O DURGA BORO R/O PUB GHUENALA P.S PANERI DIST. UDALGURI ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R CHETRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 29-08-2023

Heard Mr. R Chetri, learned counsel for the accused persons.
Also heard Mr. P Borthakur, learned Additional P.P. for the State
respondent.

This application u/s 439 Cr.P.C. is preferred by accused

persons, namely **1. Sri Mulung @ Mulug Swargiary, & 2. Sri Dipen Boro**, who were languishing in hazot since 26.6.2023, in connection with the **Goreswar P.S.Case No. 119/2023**, under Sections **120(B)/420/379/411/413** IPC , for granting bail.

Mr. Chetri learned counsel for the accused persons submits that the accused are behind the bar for last 63 days and they are not habitual offenders and some of the co-accused have already been enlarged on bail by this court and that, though Section 413 IPC is added, the ingredients of the said Section appears to be missing in the FIR and the punishment prescribed for rest of the offence is up to 7 years and therefore, it is contended to allow this petition.

Mr. Borthakur, learned Addl. P.P., has obtained necessary instruction from the concerned P. S. and submits that charge sheet has not yet been filed by the I.O.

Having heard the submission of learned Advocate of both sides, I have carefully gone through the petition and the documents placed on record.

Indisputably the accused persons are behind the bar for last 63 days and no charge sheet has been submitted till date.

Having regards to the nature of accusation and the punishment prescribed for the same, further custodial detention of the accused persons seems to be not warranted herein in the case, and accordingly, this court is inclined to allow this petition.

It is provided that on furnishing a bond of Rs.50,000/-each with one surety of like amount to the satisfaction of the learned CJM, Mushalpur, Baksa, the accused persons be enlarged on bail subject to

the condition that:

- I. The applicants shall appear before the officer in charge of the concerned PS within 10 (ten) days from today.
- II. The applicants shall not leave the territorial jurisdiction of the aforesaid police station without prior written permission from its officer in charge;
- III. The applicants shall not hamper with the investigation of the case and tamper with the evidence of the case;
- IV. The applicants 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 the court or to any police officer.

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

JUDGE

Comparing Assistant