

GAHC010193082023



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

Case No. : I.A.(CrI.)/833/2023

AKIDUL ISLAM,
S/O- mOJUM ALI SK, R/O- VILL.- BOALIA, P.O. RADHAMADHAB HAT, P.S.
MANKACHAR, DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-
783131.

VERSUS

AKHIRUL ISLAM AND 2 ORS.
S/O- ABDUL AZAD, R/O- VILL.- BOALIA, P.O. RADHAMADHAB HAT, P.S.
MANKACHAR, DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-
783131.

2:LIPLI SULTANA

W/O- AKHIRUL ISLAM
R/O- VILL.- BOALIA
P.O. RADHAMADHAB HAT
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783131.

3:THE STATE OF ASSAM

REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 06-11-2023

Heard Mr. R. Islam, learned counsel for the applicant. None appears on call for the State or for the private respondent no.2.

2. This IA has been filed under section 439(2) Cr.P.C. for cancellation of bail granted to the opposite party nos.1 and 2 namely, (1) Akhirul Islam and (2) Lipli Sultana by order dated 28.07.2023 and 17.08.2023 passed in AB 2575/2023.

3. By referring to the statement made in this application, the learned counsel for the applicant has submitted that while granting bail, this Court had found incriminating materials against the private opposite parties but the bail was granted on the ground that they would not be a flight risk.

4. It is further submitted that after being granted bail, the opposite parties have threatened to kill the applicant if he is found outside his house. Accordingly, the applicant has filed a case before the Court of District Magistrate, South Salmara-Mankachar, Hatsingimari under section 107/144 Cr.P.C. against the opposite parties.

5. It is further submitted that the opposite parties have threatened the applicant of dire consequences. It is also submitted that the opposite party nos.1 and 2 have already murdered a lady member of the family and therefore it is a fit case for cancellation of bail.

6. The applicant has already filed an application before the Court of learned District Magistrate for drawing a proceeding under section 107/144 Cr.P.C. The said application having been filed, the Court is of the considered opinion that the said proceeding should be brought to its logical conclusion.

7. The two grounds assigned for cancellation of bail are not found to be good and sufficient cause for cancellation of bail granted to the opposite parties.

8. It is seen that in para-6 of this application, the applicant has stated that after getting bail the opposite party nos.1 and 2 had threatened the witnesses to not give any statement against them otherwise they will face dire consequences. The date and time on which such threatening was given is concealed from the Court for reasons best known to the applicant. From the said statement it appears that the applicant was not threatened rather the witnesses were allegedly threatened by the opposite party nos.1 and 2.

9. In the proceedings under section 107/144 Cr.P.C. which was filed on 26.05.2023, there is no statement regarding date and time when the applicant had been allegedly threatened by the opposite party nos.1 and 2.

10. Therefore, the Court does not find it to be a fit case for cancelling the bail granted to the opposite party nos.1 and 2 namely, (1) Akhirul Islam and (2) Lipli Sultana by order dated 28.07.2023 and 17.08.2023 passed in AB 2575/2023.

11. The application stands dismissed.

JUDGE

Comparing Assistant