

GAHC010199262023



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

Case No. : AB/3072/2023

DIPEN MITRA AND ANR
S/O LATE ABANI MOHAN MITRA
R/O SONARIBALI
WARD NO. 12 P.O. AND P.S. SAMAGURI
DIST. NAGAON, ASSAM
PIN-782410

2: JAILAL MITRA @ JOY LAL MITRA
S/O LATE SUDHANSHU MOHAN MITRA
R/O SONARIBALI
WARD NO. 6
P.O. AND P.S. SAMAGURI
DIST. KAMRUP
ASSAM
PIN-78241

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A PAUL

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 29.09.2023

1. Heard Mr. A. Paul, learned counsel for the petitioners. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor appearing for the State of Assam.

2. This application under section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners namely, *Dipen Mitra and Jailal Mitra @ Joy Lal Mitra* who are apprehending their arrest connection with Samaguri PS Case No. 264/23 under Sections 148/341/326/353/435/336/427 of the Indian Penal Code.

3. The gist of accusation against the present petitioners is that on 25/08/2023, one Sri Ananda Medhi, SI of Police, lodged an FIR before Officer-in-Charge of Samaguri Police Station, *inter alia*, alleging that on that day at about 8:30 pm, at Sonaribali Tiniali adjoining to the National Highway, an unruly mob, which included the present petitioners, intercepted a vehicle bearing Registration No. AS-12-T-2220 for allegedly carrying five numbers of cows. The mob, thereafter, assaulted the driver and one passenger and burned down the vehicle. The unruly mob, including the present petitioners, also assaulted the police personnel who tried to control the situation. The mob also burned down another vehicle bearing Registration No. AS-06-Q-0062 which was parked about 500 meters away from the place of incident.

4. Learned counsel for the petitioner has submitted that the petitioners are innocent persons and in no manner involved in the offence alleged in the FIR. It is also submitted by learned counsel for the petitioners that the petitioners are the permanent resident of Samaguri and have their shops near

the place of alleged incident and they were only witnessing the alleged incident.

5. On the other hand, learned Additional Public Prosecutor has produced the case diary of the Samaguri P.S. Case No. 264/2023 which was called for in connection with this case and has submitted that there are incriminating materials against the present petitioners in the case diary and has therefore, opposed the grant of anticipatory bail to the present petitioners.

6. I have perused the materials on record including the case diary of Samaguri PS Case No.264/2023 and have considered the rival submissions made by learned counsel for both the parties.

7. On perusal of the case record, it appears that the case in hand is a case of mob-violence, where the driver and passenger of the vehicle were assaulted and the vehicle driven by the said driver also burnt down. Not only that, another vehicle parked near the incident was also burned down and the police personnel who tried to control the situation were also man handled and assaulted. On perusal of the case diary, it appears that the witnesses, whose statements have been recorded by the Investigating Officer have implicated both the present petitioners as involved in the offence alleged in the FIR.

8. Considering the nature of offence involved in this case as well as the incriminating materials against the present petitioners in the case diary, this Court is not inclined to grant the benefit of anticipatory bail to the present petitioners.

9. In view of above, the prayer for anticipatory by the present petitioners is hereby rejected and this anticipatory bail application is accordingly dismissed.

JUDGE

Comparing Assistant