

GAHC010207012018



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

Case No. : WP(C)/6454/2018

ROFIQUL ISLAM
S/O- BASHOR ALI,, R/O- CHARABARI (BULLUT), P.S. HAJO, DIST- KAMRUP
(R), ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS.
TO BE REP. BY THE COMM. AND SECY., GOVT. OF ASSAM, DEPTT. OF
HOME, DISPUR, GHY-6

2:THE DIRECTOR GENERAL OF POLICE
ULUBARI
GUWAHATI

3:THE OFFICER-IN-CHARGE
HAJO P.S.
P.O. AND P.S. HAJO
DIST- KAMRUP (R)
ASSAM

4:MR. AMAR GHOSE
PRESENTLY SERVING AS OFFICER-IN-CHARGE
HAJO P.S.
P.O. AND P.S. HAJO
DIST- KAMRUP (R)
ASSAM

5:MR. PABITRA KR. DEKA
S/O- LT PARASU RAM DEKA
PRESENTLY SERVING AS HEAD CONSTABLE
HAJO P.S.
P.O. AND P.S. HAJO
DIST- KAMRUP (R)
ASSAM

6:THE VILLAGE GAONBURAH
NAMELY

YAKUB KAZI
OF VILL- NATUN CHARABORI
P.S. HAJO
DIST- KAMRUP
ASSAM
PIN- 781102

7:RUPKONWAR KAKATI
S/O- LT BAPUTI RAM KAKATI
OF VILL- HARIANDAB
P.S. RANGIA
DIST- KAMUP
ASSAM

8:NURUL HAQUE (BABU)
S/O- MAJIBAR RAHMAN
VILL- NATUN SARABORI
P.S. HAJO
DIST- KAMRUP
ASSAM

9:SRI BINOD HALOI
S/O- LT DADHIRAM HALOI
VILL- SORABORI
P.S. HAJO
DIST- KAMRUP
ASSA

Advocate for the Petitioner : MR A R BHUYAN
Advocate for the Respondent : GA, ASSAM

BEFORE

**HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MRS. JUSTICE MITALI THAKURIA**

O R D E R

16.08.2023

(A.M. Bujor Barua, J)

Heard Mr. AR Bhuyan, learned counsel for the petitioner, Ms. M Bhattacharjee, learned Additional Senior Government Advocate for the State

respondents and Mr. S Borthakur, learned counsel for the respondent No. 4.

2. Rofiquel Islam son of Bashor Ali, police station-Hajo, district-Kamrup has instituted this writ petition with the following prayers:-

“In the premises aforesaid it is most respectfully prayed that Your Lordships may graciously be pleased to admit this Writ petition, call for the records an issue Rule, calling upon the respondents to show cause as to why a Writ in the nature of Certiorari, Mandamus should not be issued to:

- (A) Direct/command the Respondent No.2 to take appropriate action against Respondent no.4 and 5 for illegally detaining the Petitioner;*
- (B) Directing/commanding the Respondent No.1 to make appropriate compensation to the Petitioner for his illegal detention.*
- (C) And/or pass such further order/orders as this Hon’ble Court may deemed fit and proper for the ends of justice;*

–AND–

Upon the cause/causes being shown by the Respondents and on perusal of records and hearing the parties be pleased to make the Rule absolute.

-AND-

In the interim pending disposal of the case, this Hon’ble court may stay/suspend further proceeding of Hajo P.S. case No.414/2018 under section 379/411 of the Indian Penal Code.

-AND-

In the interim pending final disposal of this Writ Petition this Hon’ble Court may be pleased to pass an order observing that pendency of the writ shall not bar for taking action against Respondent No.4 and 5 to compensate the Petitioner.”

3. It is an admitted position that in respect of the subject matter involved in this writ petition, Hajo police station case No. 414/2018 under sections 379/411 IPC had been registered. But this writ petition is instituted raising certain allegations that the events preceding the registration of Hajo police station case No. 414/2018 was not in the manner as indicated in the First Information Report, but the facts would be otherwise to the extent that the petitioner claims that the rods in question which were seized from him at about 9.00 a.m. on

04.06.2018 and not 06.06.2018 as indicated in the First Information Report. But, however, the respondents in the meantime have produced a scan copy of the charge-sheet bearing charge-sheet No. 239/2018 dated 29.06.2018 that had been filed in the Court of the learned Judicial Magistrate 1st Class, Hajo and the matter is pending for trial.

4. Mr. AR Bhuyan, learned counsel for the petitioner fairly stated that because of elapse of time and as charge-sheet had already been submitted, no further adjudication is required in this writ petition.

5. In view of the above, the writ petition stands closed.

6. However, we also clarify and provide that the trial in Hajo police station case No. 414/2018 shall proceed as per law and shall not be influenced or either of the parties be prejudiced in any manner because of the closure of the writ petition giving liberty to the petitioner to contest his defence in the trial in respect of Hajo police station case No. 414/2018 and also giving liberty to the State to prosecute the petitioner as may be required under the law.

JUDGE

JUDGE

Comparing Assistant