

GAHC010215642023



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

Case No. : Bail Appln./3414/2023

MRIDUL KOCH AND 2 ORS
S/O JUGEN KOCH R/O VILL. JIAMORIA P.O. AND P.S. DHAKUAKHANA DIST.
LAKHIMPUR ASSAM

2: GOPAL KOCH
S/O LT. KULA DUTTA R/O VILL. JIAMORIA P.O. AND P.S. DHAKUAKHANA
DIST. LAKHIMPUR ASSAM

3: SATICH KOCH
S/O LT. BHUGESWAR KOCH R/O VILL. JIAMORIA P.O. AND P.S.
DHAKUAKHANA DIST. LAKHIMPUR ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR A KHANIKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

27.09.2023.

Heard A. Khanikar, learned counsel for the petitioners. Also heard Mr. R.J.

Baruah, learned Addl. P.P., Assam appearing for the State respondent.

This application under Section 439 of the Code of Criminal Procedure, 1973, has been filed by the three petitioners, namely, Mridul Konch, Gopal Konch and Satish Konch, who were arrested on 13.09.2023, in connection with the Dhakuakhana P.S. Case No.108/2023 (corresponding to G.R. Case No.161/2023), under Sections 341/326/34 of the Indian Penal Code.

The gist of accusation against the present petitioners is that on 12.09.2023, one Sri Bhan Konch lodged an FIR before the Officer-in-Charge of Dhakuakhana Police Station, inter alia, alleging that his father Boga Konch was assaulted by the accused persons, named in the FIR, namely, Gagum Konch and Dhajya Konch and the victim is undergoing treatment in Assam Medical College and Hospital, Dibrugarh.

Learned counsel for the petitioners has submitted that the victim had trespassed into the house of the accused No.1 Gagum Konch named in the FIR and thereafter, he was beaten up by the owner of the house and some other persons. It is also submitted that the petitioners have already been detained behind the bar since last fifteen days, which is sufficient time under the facts and circumstance of the present case and progress of the investigation. It is further submitted that the daughter of the petitioner No.1 has attained puberty and there will be family function in their house tomorrow i.e. on 28.09.2023.

Considering this facts, the learned counsel for the petitioners has prayed for allowing the present petitioners to go on bail.

On the other hand, the learned Addl. P.P., Assam has placed the case diary of Dhakuakhana P.S. Case No.108/2023, which was called for in this case and has submitted that there are incriminating materials against the present petitioners

as the victim was assaulted by a mob, which included the present petitioners also. It is also submitted by the learned Addl. P.P., Assam that the victim had trespassed into the house of Gagum Konch and thereafter, he was apprehended by the villagers and assaulted by them and said villagers also included the present petitioners. The learned Addl. P.P., Assam has also submitted that the Investigating Officer has recorded the statement of the present petitioners as well as other witnesses and the case is pending for collection of injury report of the victim and the statement of the victim is also to be recorded and some accuser are also to be detained and on that ground, he opposed the granting bail to the present petitioners.

I have considered the submissions made by learned counsel for the parties as well as perused the case diary, which was called for in connection with this bail application.

Though there are some incriminating materials against the present petitioners in the case diary, however considering the facts and circumstances of this case and considering the progress made in the investigation as well as the period of detention already undergone by the present petitioners, this Court is of the considered opinion that further custodial detention of the present petitioners may not be necessary for fair completion of the investigation of Dhakuakhana P.S. Case No.108/2023, if they cooperate with the Investigating officer.

In view of above, the above named three petitioners, namely, Mridul Konch, Gopal Konch and Satish Konch are hereby allowed to go on bail of Rs.30,000/- (Rupees thirty thousands) each, with one surety of like amount, to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Dhakuakhana, with following conditions:-

(1) that the petitioners will not directly or indirectly make any inducement, threat or promise to the victim woman or any person who are acquainted with the facts of this case so as to dissuade such person/victim from disclosing such facts to the Investigating Officer, and

(2) that the petitioners will cooperate with Investigating Officer.

With above observation, this bail petition is disposed of.

Return back the case diary forthwith.

JUDGE

Comparing Assistant