

GAHC010215662023



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

Case No. : Bail Appln./3417/2023

TINKU MAHALA AND 3 ORS
S/O RAMESH
R/O VILL- ANAJMANDI NAJAFGARH, DIST. NORTH WEST DELHI-110043

2: MUKESH BIDDU
S/O LATE BHAGAT SINGH
R/O VILL- SULTANPURI
P.S. SULTANPURI
DIST. NORTH WEST DELHI.

3: AKSHAY MAHALA
S/O DILBAGH SINGH
R/O VILL- SULTANPURI
P.S. SULTANPURI

DIST. NORTH WEST DELHI

4: SANDEEP BIDDU
S/O VEDPAL
R/O VILL- SULTANPURI
P.S. SULTANPURI

DIST. NORTH WEST DELHI
PH. NO. 986404426

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : PP, ASSAM

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

ORDER

06.10.2023

Heard Ms. P. Das, learned counsel for the petitioners. Also heard Mr. K.K. Baishya, learned Additional Public Prosecutor for the State of Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Tinku Mahala, 2. Mukesh Biddu, 3. Akshay Mahala and 4. Sandeep Biddu, who have been detained behind the bars since 05.08.2023 in connection with Palashbari P.S. Case No. 267/2023 under Sections 398 / 353 / 307 / 333 of the Indian Penal Code.

The gist of accusation in this case is that on 05.08.2023, one Mr. Manoj Kalita, Manager of Punjab National Bank, Rampur Branch lodged an FIR before the Officer-In-Charge of Palashbari Police Station, *inter-alia*, alleging that on that day at about 11:00 AM, a group of four persons were seen roaming around the Punjab National Bank, Rampur Branch and the area where the PNB ATM was situated seen their movement in suspicious manner, the Security Guard Mr. Ananga kalita confronted them and asked them about their reasons for roaming there amongst them, an altercation took place and the Security Guard was attacked by a knife on the back side of his head causing grievous injury on his person. The four persons, who were found roaming and who attacked the Security Guard were later on identified as present petitioners and the Security Guard was taken to Hospital with the assistance of the Police. On receipt of the said FIR, Palashbari P.S. Case No. 267/2023 has been registered.

Ms. P. Das, learned counsel for the petitioners submits that apart from mere suspicion that the intention of the present petitioners was to commit robbery, there was nothing on record to show that any robbery has been committed or that any preparation or anything relating to robbery is involved in this case. She has further submitted that there was an altercation with the Security Guard and in which the present petitioners were also injured. It is also submitted by the learned counsel for the petitioners that the present petitioners were confronted merely on the basis of suspicions and thereafter, the mob assaulted them causing serious injuries. However, it is submitted that they are not in any manner involved in the offence lodged in the FIR.

Ms. P. Das, learned counsel for the petitioners has also submitted that otherwise also the petitioners have already been detained behind the bars for the last 62 days and considering the period of detention, it is prayed that they may be allowed to go on bail.

On the other hand, Mr. K.K. Baishya, learned Additional Public Prosecutor has produced the case diary of Palashbari P.S. Case No. 267/2023 and has submitted that investigation is almost completed. He has opposed the grant of bail to the present petitioners on the ground that the offence involved in this case is serious in nature.

Considering the submissions made by learned counsel for both sides as well as considering the materials available in the case diary, though there are incriminating materials against the present petitioners in the case diary, however, as the investigation has almost completed and charge sheet would be filed very soon and also considering the period of detention already undergone by the present petitioners, their further custodial detention does not appear to be necessary for fair completion of the investigation.

In view of the above, the above named petitioners are hereby allowed to go on bail Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup subject to condition that:

- i. That the petitioners shall not directly or indirectly make any inducement, threat, or promise to the first informant or any other person who is acquainted with the facts of the case, so as to dissuade such persons from disclosing such facts to the Investigating Officer of the said case or any Court.

With the above observations, this bail application is accordingly disposed of.

Sent back the case diary.

JUDGE

Comparing Assistant