

GAHC010217452023



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

Case No. : Bail Appln./3460/2023

ARIF ZAMAN @ MD. ARIF JAMAN @ RATUL AND ANR
S/O- SIRAJ UDDIN AHMED, A RESIDENT OF VILLAGE- MERAPANI FOREST
BLOCK, P.O. P.S.- MERAPANI, DIST.- GOLAGHAT, ASSAM

2: MOTIJUL ALI
S/O- BHAIJAN ALI
A RESIDENT OF VILL- NEGHERIBILL MUSLIM GAON
P.S. MERAPANI
DIST.- GOLAGHA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : N ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

06.10.2023

Heard Mr. M.A.I. Hussain, learned counsel for the petitioners. Also heard Ms. M. Das, 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, Md. Arif Zaman @ Md. Arif Jaman @ Ratual and Motijul Ali, who have been detained behind the bars since 08.09.2023 in connection with Merapani P.S. Case No. 52/2023 under Sections 120B / 279 / 379 / 307/ 420 / 413 / 511 of the Indian Penal Code.

The accusation against the present petitioners, in brief, is that on 08.09.2023, one Pranjal Prakash Chowdhury, S.I. Merapani Police Station lodged an FIR before the Officer-In-Charge of Merapani Police Station, *inter-alia*, alleging that on that day at about 03:30 AM, an information was received from reliable source regarding illegal items being transported in a truck from Nagaland side towards Golaghat town through Negheribil area, Merapani, a search operation was conducted and a Truck bearing registration No. AS 02 CC 6972, which was moving through No. 2 Negheribil Rampur Road in a very speedy and rash manner and was intercepted and the driver and other occupants of the vehicle were also apprehended and during search, it was found that the said Truck was loaded with 59 gunny bags containing areca nuts and the same were concealed underneath some tyres and it was informed that the Truck leading towards Nagaon and the driver and the handyman of the said Truck fail to produce any vouchers or any related documents in respect of the seized goods and therefore it was suspected that the seized areca nuts were illegally brought for selling in local markets on receipt of the said FIR, Merapani Police Station Case No. 52/2023 was registered.

Mr. M.A.I. Hussain, learned counsel for the petitioners submits that the petitioners are only the driver and handyman of the said Truck which was used for transportation of goods from the Nagaland to various parts of the State of Assam and on that day they were carrying an consignment of areca nuts and some tyres from Dimapur to Nagaon.

Learned counsel for the petitioners has also submitted that otherwise also the petitioners have already been detained behind the bars for the last 28 days and considering the period of detention, it is prayed that they may be allowed to go on bail.

On the other hand, Ms. M. Das, learned Additional Public Prosecutor has produced the case diary of Merapani P.S. Case No. 52/2023 and has submitted that there are incriminating materials against the present petitioners in the case diary. She has also submitted that the investigation is otherwise fairly progress.

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 fairly progressed 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 of Merapani P. S. Case No. 52/2023.

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, Golaghat 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