

GAHC010219502023



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

Case No. : Bail Appln./3482/2023

JANTI CHANGMAI AND ANR
S/O- JIBON CHANGMAI, R/O- VILL- PACHIM SUBAHI, P.S. DHEMAJI, DIST.-
DHEMAJI, ASSAM

2: SRI BIPUL CHANGMAI
S/O- PURNA CHANGMAI
R/O- VILL- PACHIM SUBAHI
P.S. DHEMAJI
DIST.- DHEMAJI
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : MR. T CHUTIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 17.11.2023

Heard Mr. T. Chutia, learned counsel for the petitioners. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, *Sri Janti Changmai and Sri Bipul Changmai* who are detained behind the bar since 02.09.2023 (since last 76 days) in connection with Dhemaji P.S. Case No. 126/2023 under Sections 143/302 of the Indian Penal Code.

The gist of accusation against the present petitioners is that on 1st September, 2023 one Smt. Rinu Gogoi had lodged an FIR before the Officer-in-Charge of Dhemaji Police Station, *inter alia*, alleging that on 31.08.2023 when the husband of the first informant was going to the shop to purchase edible items, the accused persons named in the FIR (12 nos. of accused persons are named in the FIR) had assaulted her husband. It has been alleged in the FIR that one Jiban Changmai assaulted the husband of the first informant with an iron rod as a result of which he fell on the ground and, thereafter, the accused persons assaulted him with *dao* and other weapons. It is further stated in the FIR that later on the husband of the first informant succumbed to his injuries on his way to Dibrugarh Medical College and Hospital.

Learned counsel for the petitioners has submitted that the husband of the first informant was mentally ill person and he was being assaulted by general public and the present petitioners went there only to save the husband of the informant from the assault of the general public. It is also submitted by learned counsel for the petitioners that in the FIR specific allegations are made against one Jiban Changmai who is still absconding and no such specific allegations are there against the present petitioners. Further, learned counsel for the petitioners has also submitted that considering the period of detention already undergone by the present petitioners, they may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Dhemaji P.S. Case No. 126/2023 and has submitted that there are incriminating materials in the case diary against the present petitioners. However, he has also submitted that the investigation, in the meanwhile, has fairly progressed and it is because some of the co-accused persons are yet to be apprehended.

I have considered the submissions made by learned counsel for both sides and have gone through the case diary of Dhemaji P.S. Case No. 126/2023.

On perusal of FIR, it appears that though the present petitioners are named in the FIR, however, specific allegations are made against Jiban Changmai. It also appears on perusal of the case diary that though there are some incriminating materials in the case diary against the present petitioners, however, considering the progress made in the investigation as well as considering the fact that the petitioners are already detained behind the bar since last 76 days, 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 of Rs.50,000/- (Rupees Fifty Thousand) each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Dhemaji, subject to the conditions that:-

1. That they shall cooperate with the Investigating Officer in the investigation and shall appear before the Investigating Officer as and when so required by the Investigating Officer during the pendency of the investigation;
2. That they shall not directly or indirectly make any inducement,

threat or promise to the first informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such persons from disclosing such facts to the Investigating Officer or to the Court;

3. That they shall not indulge in any offence similar to the offence of which they are accused in this case.

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

Send back the case diary.

JUDGE

Comparing Assistant