

GAHC010222962023



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

Case No. : Bail Appln./3552/2023

BANALATA SARKAR AND ANR.
W/O SRI GUNAJIT SARKAR,
VILL.- BATGAON, P.S.- TARABARI, DIST.- BARPETA, ASSAM.

2: RAJEN SARKAR
S/O SRI SAMBHU SARKAR

VILL. AND P.O.- BAMUNDI
P.S.- SARTHEBARI
DIST.- BARPETA
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED P.P., ASSAM.

Advocate for the Petitioner : MR D K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

09.11.2023

Heard Mr. D.K. Das, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam.

2. This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, Banalata Sarkar and Rajen Sarkar, who have been detained behind the bar since 02.08.2023 in connection with Sessions Case No. 209/2023 pending before the Court of learned Sessions Judge, Barpeta corresponding to Tarabari P.S. Case No. 59/2023 under Sections 294/504/506/306 of the Indian Penal Code.

3. The learned counsel for the petitioners submits that the petitioners detained behind the bar since more than 100 days and they are facing trial in Sessions Case No. 209/2023. It is also submitted by the learned counsel for the petitioners that the petitioner no. 1 is a permanent residence of village – Batgaon whereby the petitioner no. 2 is a permanent residence of village – Bamundi in the district of Barpeta and they are willing and ready to cooperate in the trial. It is also submitted by the learned counsel for the petitioners that the petitioner no. 1 is also having a deaf and dumb child of 6 years of age who is also inside the jail along with the said petitioner. It is further submitted by the learned counsel for the petitioners that petitioners had preferred a bail application before the learned Trial Court which was rejected on 21.09.2023 on the ground that the bail to the accused persons at this stage may hamper the prosecution case. However, no reasons have been cited in the said order as to why the said observation was made or what was the basis of making such an observation while rejecting their bail application.

4. Considering the above circumstances as well as considering the fact that the petitioners are ready to cooperate in trial, their custodial detention does not appear to be necessary for fair completion of trial of Sessions Case No. 209/2023, if they cooperate with the trial.

5. In view of the above, the petitioners, namely, Banalata Sarkar and Rajen

Sarkar are allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount subject to the satisfaction of the learned Sessions Judge, Barpeta, who may add or invoke any other additional bail condition before accepting the bail bond.

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

JUDGE

Comparing Assistant