

GAHC010226932022



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

Case No. : AB/3297/2022

GIASUDDIN SEIKH AND 2 ORS
S/O LATE CHAPAR ALI
R/O NAKHAT, BHAKAT PARA
PS. DHULA
PIN- 784514
DIST. DARRANG, ASSAM

2: NABIR ALI
S/O LT. CHAPAR ALI
R/O BALUGAON
P.S. KHARUPETIA
DIST. DARRANG
ASSAM

3: AJGAR ALI @ AZGAR ALI
S/O AJIT ALI
VILL- NAKHAT PS. DHULA
DIST. DARRANG
ASSAM
PIN-78451

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P DEKA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

09.01.2023

Heard Mr. R. Hoque, learned counsel for the petitioners and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioners viz. [1] Giasuddin Seikh, [2] Nabir Ali and [3] Ajgar Ali @ Azgar Ali have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest, in connection with Kalaigaon Police Station Case no. 182/2021 registered under Sections 366A/34, Indian Penal Code [IPC].

3. In the First Information Report [FIR], the informant has named 5 [five] persons as accused including the petitioner no. 1 [accused no. 3], the petitioner no. 2 [accused no. 4] and the petitioner no. 3 [accused no. 5]. The informant has alleged that the accused no. 1 [Mahir Ali] and the accused no. 2 [Ibrahim Mia @ Babu] had kidnapped his minor daughter on 06.12.2021. When the matter of kidnapping was informed to the petitioners, they made assurance to find out the minor daughter of the informant. The informant has made further allegation that despite elapse of 10 [ten] days, the petitioners did not inform anything to the informant.

4. The petitioner no. 1 is the father of the accused no.1, whereas the petitioner no. 2 and the petitioner no. 3 are the uncle and the cousin brother

respectively of the accused no.1. In the FIR, the informant did not attribute any role to these three petitioners in the act of kidnapping of his minor daughter. The petitioners were provided interim protection by the order dated 10.11.2022 with further direction to appear before the Investigating Police Officer [I.O.] within ten days from the date of order i.e. 10.11.2022. In compliance with the order dated 10.11.2022, all the three petitioners have appeared before the I.O. of the case and on their appearance, their statements have been recorded by the I.O. Those statements are available in the case diary, produced by the learned Additional Public Prosecutor today.

5. Considering the fact that no specific role was attributed to these petitioners by the informant in the FIR in the act of kidnapping of his minor daughter; the only allegation against the petitioners was that they made assurance to the informant that they would make efforts to find out the minor daughter of the informant; and the fact that the petitioners have already joined the investigation by appearing before the I.O. of the case, I am of the considered view that custodial detention of the petitioners for the purpose of carrying out further investigation of the case appears not necessary and their release on anticipatory bail will not bring any adverse effect in further investigation of the case, provided that they continue to extend their assistance and cooperate in further investigation of the case.

6. Accordingly, the interim protection granted to the petitioners by the order dated 10.11.2022 is made absolute subject to the conditions that :

[1] the petitioners shall not, directly or indirectly, make any inducement, threat

or promise to any witness acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer; and

[2] the petitioners shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

7. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant