

GAHC010227532023



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

Case No. : AB/3481/2023

MANTAJ ALI AND 3 ORS
S/O FARID ALI
R/O VILL AND P.O. JAPIA P.S. HAJO
DIST. KAMRUP, ASSAM
PIN-781382, ASSAM

2: RIJUL ALI
S/O FAZAR ALI
R/O VILL- AND P.O. KANIHA

P.S. RANGIA
DIST. KAMRUP
ASSAM
PIN-781380

3: TAHIDUR RAHMAN
S/O TAYUB ALI
R/O VILL AND P.O. JAPIA
DIST. KAMRUP
ASSAM
PIN-781382

4: TOBEDUL HOQUE @ TABEDUR RAHMAN
SO LT. JARUL HOQUE
R/O VILL- 2 NO. KAKRA BORI
P.O. DURAPARA
P.S. BOKO
DIST. KAMRUP
ASSAM
PIN-78112

VERSUS

THE STATE OF ASSAM

REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 14.11.2023

Heard Mr. H. R. A. Choudhury, learned senior counsel assisted by Ms. S. S. Zia, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State of Assam.

This application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the petitioners, namely, (1) Mantaj Ali, (2) Rijul Ali, (3) Tahidur Rahman, and (4) Tobedul Hoque @ Tabedur Rahman, who are seeking pre-arrest bail in connection with G.R.P.S. Case No. 187/2023 registered under Section 120B/389 of Indian Penal Code added Section 387 of Indian Penal Code.

The accusation in this case is that on 28.09.2023, one ASI Bibungsar lodged an FIR before the Officer-in-Charge of Guwahati G.R.P.S., *inter-alia*, alleging that on 10.05.2023 at about 10.30 am the present petitioner along with along four other police personnels while conducting checking duty at Kamakhya Railway Station boarded Kamakhya Gandhidam Express and found two persons, namely, Sandeep Patil and one Mukesh Kumar possessing one boat shaped golden colour metal suspected to be gold.

It is alleged in the FIR that the petitioner along with other personnel of the police party demanded to release the apprehended person on payment of Rs. 1,00,000/- and received the said money and allowed the said persons namely, Mukesh Kumar and Sandeep Patil to flee away in the said train.

It is further alleged in the FIR that later on the accused persons that including the present petitioner returned back to home.

The case was initially registered under Section 120B/389 of the Indian Penal Code.

Learned senior counsel for the petitioners submits that the main accused in this case namely, Maran Ch. Das who was earlier arrested in this case has already been granted bail by this Court. It is also submitted by learned senior counsel that in the mean while the money which was alleged to have been illegally obtained by the present petitioners have been returned back.

Learned senior counsels has also submitted that the petitioner who were earlier Home Guards have already been discharged and they are ready to co-operate with the Investigating Officer.

On the other hand, learned Additional Public Prosecutor has produced the case diary of G.R.P.S. Case No. 187/2023 and has submitted that there are sufficient incriminating material against the present petitioners.

Learned Additional Public Prosecutor has submitted that in the meanwhile the statement of the main accused person, namely, Mr. Maran Ch. Das has been recorded and the statement of some other witnesses have also been recorded.

I have considered the submissions made by learned counsel for both sides and also perused the case dairy which is available before this Court.

Considering the fact that main accused of this case Mr. Maran Ch. Das

who was earlier arrested has already been granted bail in this case and also considering the fact that the investigation has fairly progressed, I am of the considered opinion that custodial detention of the above named petitioners may not be necessary, if they co-operate in the investigation.

Hence, in view of above, the petitioners, namely, (1) Mantaj Ali, (2) Rijul Ali, (3) Tahidur Rahman, and (4) Tobedul Hoque @ Tabedur Rahman, are directed to appear before the Investigating Officer of G.R.P.S. Case No. 187/2023 within a period of 10 days from the date of this order and co-operate in the Investigating Officer and if they do so within the said period, in the event of their arrest in connection with G.R.P.S. Case No. 187/2023, they shall be allowed to go on anticipatory bail of Rs. 30,000/- (Rupees Thirty Thousand only) each, with one surety of like amount to the satisfaction of the arresting authority with the following condition that:

- i. That the petitioners shall co-operate with the Investigating Officer in fair completion of the investigation and shall appear before the Investigating Officer as and when required for the sake of fair investigation.

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

Send back the case diary.

JUDGE

Comparing Assistant