

GAHC010229292023



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

Case No. : Bail Appln./3636/2023

JANNAT BEGUM AND 2 ORS.
W/O LATE MOHAMMAD HUSSAIN,
R/O HAJI MOHAMMAD HUSSAIN BUILDING, H.NO. AAA, UPPER JAIL
ROAD, P.O.- SHILLONG GPO, P.S.- SHILLONG SADAR, DIST.- EAST KAHSI
HILLS, MEGHALAYA.

2: MOHAMMAD YUSUPH @ MOHD YUSUPH
S/O LATE BARAKAT ALI

R/O WARD NO. 18
BY-LANE OPPOSITE TO LAWAHAR PIYAU
P.S.- PHALODI
DIST.- JODHPUR
RAJASTHAN.

3: INAYET ALI
S/O ABDUL RASHID @ ABDUL MAHAMMAD

R/O NEW KOHINOOR CHOWPASNI ROAD
WARD NO. 23
P.S.- PRATAP NAGAR
DIST.- JODHPUR
RAJASTHAN

VERSUS

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

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

12.10.2023

Heard Mr H R A Choudhury, learned Senior Counsel assisted by Mr R A Choudhury, learned counsel for the accused/applicant. Also heard Mr P Borthakur, learned Additional Public Prosecutor for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused/applicants, namely, **1) Jannat Begum, 2) Mohammad Yusuph @ Mohd Yusuph and 3) Inayet Ali**, who have been languishing in jail hazot in connection with **Basistha PS Case No. 551/2023, under Sections 380/411/401 IPC**, for grant of bail.

3. The above noted case has been registered on the basis of FIR lodged by SI Kapil Pathak of Jorabat Outpost on 14.09.2023. The essence of allegation made in the FIR is that on 14.09.2023, the informant and his staff have intercepted one vehicle bearing Registration No. ML-05-N-7812, at about 09:15 am and found one Jannat Begum, Inayet Ali, Mohammad Yusuph and Veeru Singh and having checked the vehicle, they have recovered 518.8 grams of suspected gold from the possession of Jannat Begum.

4. Mr H R A Choudhury, learned Senior Counsel for the accused/applicants, submits that accused No. 1 is 56 years old lady and she is the permanent resident of Shillong and accused Nos. 2 and 3 are from Jodhpur, Rajasthan and by profession, they are goldsmith and on that day, they were proceeding to Jodhpur in connection with the marriage of the granddaughter of accused No. 1 and for that purpose, they had carried the seized gold and that the case has been registered under Sections 380/411/401 IPC, but none of the Sections are attracted here in this case and they are behind the bar for last 28 days and therefore, Mr Choudhury contended to allow this petition.

5. On the other hand, Mr P Borthakur, learned Additional Public Prosecutor has produced the Case Diary before this Court and submits that apart from the quantity of gold seized from the possession of the accused/applicants, as mentioned in the FIR, another consignment of gold was also seized from their possession and the total amount thus, came to be 1250.544 grams and that investigation of the case is going on and therefore, Mr Borthakur has opposed the petition. However, to a pointed query of the Court, Mr Borthakur submits that there is no FIR in relation to stealing of gold from any quarter, is available in the Case Diary.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of Mr Borthakur, learned Additional Public Prosecutor.

7. It appears that the accused persons were arrested on 14.09.2023 and since then, they have been languishing in jail hazot. Further, it appears that accused No. 1, Jannat Begum is a lady and she is 56 years old. Case Diary also indicates that the IO has achieved substantial progress in the investigation of the case.

8. In view of the progress of the investigation and also in view of the period of detention and balancing the same with the nature and gravity of the offence, this Court is inclined to allow this petition. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- (Rupees Fifty thousand) only, each with one surety each of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati, all the three accused persons, namely, **1) Jannat Begum, 2) Mohammad Yusuph @ Mohd Yusuph and 3) Inayet Ali**, be enlarged on bail.

9. In terms of above, this bail application stands disposed of.

10. The case diary be returned.

JUDGE

Comparing Assistant