

GAHC010237642023



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

Case No. : Bail Appln./3866/2023

NIJUMONI BURAGOHAIN @ NIJUMONI BURHGOHAIN AND ANR
W/O SHRI UMA KT. KALITA @ MAINA KALITA,
R/O VILL- MAKRACHUK, P.S. DHAKUAKHANA, DIST. LAKHIMPUR, ASSAM

2: SMTI. MINA KALITA
W/O SHRI KRISHNA PRASAD @ PKRISHNA CHOUDHURY
R/O VILL- K.B. ROAD
LAKHIMPUR
P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P BORDOLOI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 15.11.2023

Heard Mr. P. Bordoloi, learned counsel for the petitioners. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State.

This is an application made under **Section 439 Cr.P.C.**, seeking bail by the accused-petitioners, namely, **(1) Smt. Nijumoni Buragohain @ Nijumoni Burhgohain (2) Smti. Mina Kalita**, in connection with **Special (NDPS) Case No. 28/2023**, registered under **Section 20(C)/29 of NDPS Act** pending in the court of learned Addl. Sessions Judge (FTC), Lakhimpur, North Lakhimpur.

It has been submitted by the learned counsel for the accused-petitioners that the accused-petitioners have been detained in custody for last 204 days. It is also submitted that only one witness was examined and there is little chance of disposing of the matter within a short period of time. Since the days of arrest, the petitioner No. 1 was in custody along with her three years old child. It is further submitted that the petitioner No. 1 has another daughter who is about 12 years of age. The main accused Umakanta Kalita who is the husband of the petitioner No. 1 had surrendered before the court on 11.08.2023 and since then he is in judicial custody. Parents of the 12 years old child are in judicial custody and there is no other person to look after the said child. Under such backdrop, petitioner No. 1 may be enlarged on bail.

Regarding the petitioner No. 2, the learned counsel for the petitioners has submitted that the petitioner No. 2 is the sister-in-law of petitioner No. 1 and sister of the main accused i.e. Umakanta Kalita and used to reside along with her husband at Lakhimpur. The petitioner No. 2 visited the house of petitioner

No. 1 on the day of the incident and she is no way connected with the alleged offence. Considering the nature of offence, the petitioner No. 2 also may be enlarged on bail.

In response, Mr. Baruah, learned Additional Public Prosecutor for the State vehemently opposed in granting bail to the petitioners. It is submitted that in spite of best efforts, the prosecution has failed to produce the witnesses. Considering the background of the case, bail may not be granted to the petitioners at this stage of trial.

I have considered the submissions made by the learned counsel for the parties. I have also perused the scanned copy of LCR.

It appears that charge-sheet has been submitted on 01.08.2023 and the charge was framed on 09.10.2023 against the present petitioners along with two other accused. Only one witness was examined and there are 17 more witnesses to be examined in the case. It transpires that there is little chance of disposing of the matter within a short period of time.

Considering the womanhood as well as the length of detention of the accused-petitioners in custody, the accused-petitioners, named above, shall be released on bail in connection with **Special (NDPS) Case No. 28/2023**, registered under **Section 20(C)/29 of NDPS Act**, on furnishing bail bond of **Rs.1,00,000/- each two suitable sureties** each of the like amount out of which one of the sureties should be a Government employee, to the satisfaction of learned Addl. Sessions Judge (FTC), Lakhimpur, North Lakhimpur.

The direction for bail is further subject to the condition that the accused-petitioners:

(a) shall not leave the territorial jurisdiction of learned Addl. Sessions Judge (FTC), Lakhimpur, North Lakhimpur, without prior written permission from

him/her;

The learned Addl. Sessions Judge (FTC), Lakhimpur, North Lakhimpur, is at liberty to impose any condition(s) as it deems fit and proper at the time of releasing the accused/petitioners on bail to procure their attendance during trial.

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

JUDGE

Comparing Assistant