

GAHC010238902023



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

**Case No. : Bail Appln./3819/2023**

MOHIBUL ALOM AND ANR  
S/O JODDAR ALI  
R/O VILL- SIDHABARI  
P.S. MATIA, GOALPARA,

2: SABER ALI  
S/O SORFUDDIN SHEIKH  
R/O BHATI NAYAPARA  
P.S. MATIA  
DIST. GOALPARA  
ASSAM

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR F Z MAZUMDER**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**Date : 07.11.2023**

Heard Mr. H. R. A. Choudhury, learned senior counsel assisted by Mr. F. Z. Mazumder, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, *1. Mohibul Alom and 2. Saber Ali* who are detained behind the bar since 14.09.2023 in connection with STF P.S. Case No. 13/2023 under Sections 120(B)/418/420/468/121A of the Indian Penal Code.

The gist of accusation in this case is that on 14.09.2023, one Bidhan Das, SI of Police, STF, Guwahati, Assam lodged an FIR before the STF Police Station, Guwahati, Assam *inter alia*, alleging that sources information was received by the Police that the petitioners are carrying the business of areca nut by preparing forged documents to be presented to tax authorities for showing less income and paying less tax though in reality a business transaction and turnover are much higher. It is also alleged in the FIR that both the petitioners have been involved in conspiracy of cheating and were involved in hawala transaction through electronic payment Gateway by dubious bank accounts across the country which it is suspected it may create threat to the sovereignty of the country by funding foreign anti national organizations against India.

Learned senior counsel for the petitioners has submitted that the petitioner No. 1 is doing export import business and has been also provided with an export import code by the Government of India in the name of the petitioner No. 1 which has been furnished along with the bail application as Annexure-D to the bail application. It is submitted that the petitioner No. 1 has also been carrying business of Areca nuts with valid business license to do the said business.

It is submitted by learned senior counsel for the petitioners that the petitioners are carrying on their business in the name of M/s Haji Enterprise and have GST registration both in the State of Assam and Meghalaya.

Learned senior counsel for the petitioners has also submitted that the allegations leveled against them in the FIR is without any basis and is false. Learned senior counsel has also submitted that there is no ingredient of any offence under Section 121 of the Indian Penal Code in the instant case and all other offence involved in the present case carries maximum punishment for seven years for which the statutory period of detention only 60 days.

On the other hand, learned Additional Public Prosecutor has produced the case diary of STF P.S. Case No. 13/2023 and has submitted that the investigation is fairly progressing and the Investigating Officer has to collect some bank accounts details. It is also submitted by learned Additional Public Prosecutor that statement of the present accused persons were recorded on more than one occasion by the Investigating Officer.

I have considering the submissions made by learned counsel for both sides and have gone through the case diary of STF P.S. Case No. 13/2023.

Considering the progress made in investigation and the period of detention already undergone by the above named petitioners and also considering the documents produced by the learned counsel for the petitioners on behalf of the petitioners showing that they are carrying valid business of areca nuts, this Court is of considered opinion that further custodial detention may not be necessary if they cooperate with the Investigating Officer.

In view of the above, both the above named petitioners are hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) each with one surety of like amount subject to the satisfaction of learned Chief Judicial Magistrate, Kamrup(M) with a condition that both the petitioners shall continue to cooperate with the Investigating Officer and shall appear before the

Investigating Officer as and when so required by the Investigating Officer for the sake of fair investigation.

With the above observation, this bail application is disposed of.

Send back the case diary.

**JUDGE**

**Comparing Assistant**