

GAHC010242322023



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

Case No. : Bail Appln./3891/2023

OBEKA JIMO AND ANR.
S/O KAKIYE JINO,
R/O BURMA CAMP, UNB- B(SUMISA) HOUSE NO. 515, DIMAPUR, PIN-
797112, STATE- NAGALAND.

2: ITOKA ASSUMI
S/O LATE KIHOTO ASSUMI
R/O AKUHITO TOWN
DIST.- ZUHENBOTO
P.O.- AKUHITO
STATE- NAGALAND

VERSUS

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

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

06.11.2023

Heard Mr. R. Sarma, learned counsel for the accused persons and Mr. B. Sarma, 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 persons namely, **Sri Obeka Jimo and Sri Itoka Assumi**, who have been languishing in jail hazot, in connection with the **Naojan Forest Range Office Case No. N/08 of 2023-2024**, under Section 9 of the Wildlife [Protection] Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Pranjal Bora, on 17.09.2023. The essence of allegations made in the FIR is that on 17.09.2023, at about 11 am the informant had intercepted one Maruti Suzuki Wagon-R vehicle, bearing registration No. NL-07-C-5758 and on checking, he found 27 nos. of dead birds, being carried in the vehicle and also apprehended one Obeka Jimo and Itoka Assumi.

4. Mr. R. Sarma, learned counsel for the accused persons submits that the accused persons were arrested on 18.09.2023, and since then they have been languishing in jail hazoot for last 51 days and that the accused persons are innocent and no way involved with the offence alleged in the FIR and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, referring to the materials available in the record of the learned court below, has submitted that after completion of investigation the final report has already been submitted before the learned court below and now the case is pending at the stage of framing of charges. Mr. Sarma further submits that the birds were endangered species but not the scheduled species.

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 scanned copy of the record produced by Mr. B. Sarma, learned Addl. P.P. for the State respondent.

7. It appears that the accused persons were arrested in this case on 18.09.2023. Further it appears that the investigation of the case has already been

completed and the offence report has already been submitted on 29.09.2023 and in that view of the matter, further custodial detention of the accused persons seems to be unwarranted here in this case. And accordingly it is provided that on furnishing a bond of Rs. 50,000/- only each, with one surety of like amount to the satisfaction of the learned **Additional Sessions Judge, Golaghat**, the accused persons be enlarged on bail.

8. The above privilege is, however, subject to the following conditions:

[a] the accused persons shall appear before the learned court below on each and every date and

[b] the accused persons shall not indulge in tampering the witnesses.

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

10. The case diary be returned.

JUDGE

Comparing Assistant