

GAHC010249062023



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

Case No. : Bail Appln./4019/2023

SAKINUR ISLAM AND ANR.
S/O AFSAR ALI
R/O VILL- KURSHA KATI
P.O. RANIGONJ,
P.S. SAPATGRAM
DIST. DHUBRI, ASSAM
PIN-783345

2: SAHIDUL ISLAM @ BUTTU
S/O AFSAR ALI
R/O VILL- KURSHA KATI
P.O. RANIGONJ

P.S. SAPATGRAM
DIST. DHUBRI
ASSAM
PIN-78334

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 23.11.2023

Heard Mr. M. U. Mondal, learned counsel for the petitioners. Also heard Mr. R. J. Baruah, 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, *Sakinur Islam and Sahidul Islam @ Buttu* who has been detained behind the bar since 12.10.2023 (for last 43 days) in connection with Sapatgram P.S. Case No. 68/2023 under Sections 120B/457/302 of the Indian Penal Code.

The accusation in this case is that on 27.08.2023, one Sirajul Haque lodged an FIR before the In-charge of Rani Ganj Police Outpost under Sapatgram Police Station, inter-alia, alleging that on the night of 25-08-2023, 8(eight) numbers of accused persons named in the FIR, including the present Petitioner, illegally trespassed into the house of the elder brother of the first informant, namely Shah Jalal Sheikh, and brutally killed him along with his wife, Narzima Begum, with sharp weapons, and thereafter fled away. On the next day, the family members of the brother of the first informant found the dead bodies of both the deceased persons.

Learned counsel for the petitioners has submitted that the petitioners are detained behind the bar for last 43 days and they have been arrested merely on suspicion as there was no eye witness to the alleged incident. It is further submitted that there is no direct evidence against the present petitioners and they were apprehended and implicated in this case merely on the basis of suspicion. It is further submitted by the learned counsel for the petitioners that

the petitioners are the permanent resident of Dhubri district under Sapatgram Police Station and are ready to cooperate in the investigation. It is also submitted that some of the co-accused in this case have already been granted bail by this Court.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Sapatgram P.S. Case No. 68/2023 which was called for in connection with this case and has submitted that the present petitioners are the main accused who have been suspected to have main role in the alleged offence and it is further submitted that their release at the state of the investigation would affect fair investigation and accordingly, the prayer for bail of the petitioner has been vehemently opposed by the learned Additional Public Prosecutor.

I have considered the rival submissions made by the learned counsel for both the sides and have perused the materials on record including the case diary of Sapatgram P.S. Case No. 68/2023.

On perusal of the case diary, it appears that at the stage of the investigation, there is no direct evidence of offence alleged in the FIR could yet be collected. Though, the offence involved in this case is very heinous, however, as at the present stage of investigation and there is no direct evidence against the above named petitioners and as they have already undergone detention behind the bar for since last 43 days, their further custodial detention for the sake of investigation does not appear to be necessary, if they cooperate in the investigation.

For the above reasons, the petitioners, namely, *Sakinur Islam and Sahidul Islam @ Buttu* are hereby allowed to go on bail of Rs.30,000/- (Rupees Thirty

Thousand only) each with one surety of like amount subject to the satisfaction of learned SDJM(S), Bilasipara, subject to following condition:-

- i. That the petitioners shall make themselves available for interrogation as and when so required by the Investigating Officer during the pendency of the investigation of Sapatgram P.S. Case No. 68/2023.
- ii. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person or persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the Investigating Officer.
- iii. That the petitioner shall not leave the jurisdiction of Dhubri District without prior leave of SDJM(M), Bilasipara and intimation to the Investigating Officer of Sapatgram P.S. Case No. 68/23 during pendency of the investigation.

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

JUDGE

Comparing Assistant