

GAHC010252292023



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

Case No. : Bail Appln./4086/2023

GADADHAR TALUKDAR AND ANR
S/O- PAWAN CH. TALUKDAR, RESIDENT OF VILLAGE- BHABANIPUR, P.S.
BARPETA, DISTRICT- BARPETA, ASSAM

2: DEBANANDA TALUKDAR
S/O- GADAHAR TALUKDAR
RESIDENT OF VILLAGE- BHABANIPUR
P.S. BARPETA
DISTRICT- BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR Z ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 28.11.2023

Heard Mr. Z. Alam, 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, 1. Gadadhar Talukdar, and 2. Debananda Talukdar, who have been detained behind the bar since 01.11.2023 (last 286 days) in connection with Patacharkuchi P. S. Case No. 403/2023 under section 120(B)/325/294/353/354(B)/333/506 of the IPC.

The gist of accusation against the present petitioners in this case is that on 01.11.2023 one Babul Deka had lodged an FIR before the officer-in-charge of Bhabanipur Police Out post, *inter-alia*, alleging that the accused persons named in the FIR including the present petitioners had entered into an altercation with some person, who had parked their motor cycle in front of the shop of the petitioner no. 1 and when police personnel tried to intervene in the said altercation the present petitioners assaulted the police personnel also and also outraged the modesty of woman homeguard , Asiran Nessa.

Learned counsel for the petitioners submits that the allegations made in the FIR against the present petitioners are not true. In fact, there was altercation between petitioners and the persons who had parked their motor cycle and who had misbehaved with the daughter of the petitioner no.1 and when the daughter of the petitioner no. 1 started to videograph the incident, the son of the police personnel tried to snatch away the mobile phone, which resulted into altercation, however nothing has been alleged in the FIR.

On the other hand, learned Public Prosecutor has produced the case diary of Patacharkuchi P. S. Case No. 403/2023 and has submitted that the Investigating Officer has recorded the statement of the witnesses under section 161 of the Code of Criminal Procedure, 1973 and on perusal of the said statements, it appears that there are incriminating materials against the present petitioners.

I have considered the submissions made by learned counsel for both the sides and perused the materials available on record including the Patacharkuchi P. S. Case No. 403/2023.

Though it appears that some of the witnesses whose statements are recorded by the Investigating Officer under section 161 of the Code of Criminal Procedure, 1973 have implicated the present petitioners, however, considering the fact that the petitioners have already been detained behind the bar for last 28 days and also considering the progress made in the investigation, their further custodial detention does not appear to be necessary for fair completion of the investigation of Patacharkuchi P. S. Case No. 403/2023.

Hence, the petitioners, namely, 1. Gadadhar Talukdar, and 2. Debananda Talukdar, are 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 the learned Chief Judicial Magistrate, Bajali with the following conditions:

- i. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.
- ii. That the petitioners shall co-operate in the investigation.

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

JUDGE

Comparing Assistant