

GAHC010259282023



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

Case No. : Bail Appln./4199/2023

SUBURUDDIN @ SOBUR UDDIN AND 4 ORS
S/O LT. KURBAN ALI
VILL- LARUAJAN, P.S. CHHAYGAON
DIST. KAMRUP, ASSAM

2: ROUSTAM ALI
S/O LT. HAJRAT ALI
VILL- HAHSORA (BARAMARA)
P.S. BARPETA

DIST. BARPETA
ASSAM

3: AJMAL BHUYAN
S/O TAREK BHUYAN
VILL- BOHORI

P.S. TARABARI
DIST. BARPETA
ASSAM

4: ABDUL HALIM
S/O RUKAMAL ALI
VILL- HATISOLAPAM
P.S. CHHAYGAON
DIST. KAMRUP (R)
ASSAM

5: JEHER ALI
S/O AJAHAR ALI
VILL- 2 NO. TOPAMARI
P.S. NAGARBERA
DIST. KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

29.11.2023

Heard Mr. S. Munir, learned counsel for the petitioners. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Suburuddin @ Sobur Uddin, 2. Roustam Ali, 3. Ajmal Bhuyan, 4. Abdul Halim, and 5. Jeher Ali, who were detained behind the bars since 11.10.2023 (for last 49 days) in connection with Sorbhog P.S. Case No. 107/2023 under Section 342/394/395/412/413 of the Indian Penal Code.

The gist of accusation against the present petitioners is that on 05.10.2023, one Koilash Mondal had lodged an FIR before the Officer-In-Charge of Sorbhog Police Station, *inter-alia*, alleging that on 04.10.2023, when one Truck bearing Registration No. RJ-21GD-3892 was carrying 425 numbers of bags of areca nuts some of the unknown miscreants stopped the said truck by threatening and assaulting the driver and handyman of the said truck, they

looted 382 bags of areca nuts.

Learned counsel for the petitioners has submitted that the petitioners are detained behind the bars for last 49 days and considering the period of detention, they may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has opposed the grant of bail to the present petitioners on the ground that only 247 bags out of the stolen 382 bags of the areca nuts have been recovered and some of the stolen areca nuts are yet to be recovered.

It is further submitted that some of the co-accused are also yet to be apprehended by police and release of the petitioners at this stage of investigation would hamper in the investigation of the case as well as recovery of this remaining stolen property.

I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record including the case diary of Sorbhog P.S. Case No. 107/2023. It appears from the case diary that though some of the stolen areca nuts are yet to be recovered and some of the co-accused persons are yet to be arrested, otherwise the investigation has fairly progressed. It also appears that the petitioners have already detained behind the bars for last 49 days and in the considered opinion of this Court, their further custodial detention does not appear to be necessary for fair completion of the investigation of Sorbhog P.S. Case No. 107/2023.

In view of above, the above named petitioners are hereby allowed to go on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Barpeta with conditions that:-

- (i) the petitioners shall appear before the Investigating Officer of Sorbhog

P.S. Case No. 107/2023 as and when required by the Investigating Officer for the purpose of fair completion investigation of the case;

(ii) the petitioners shall also provide their contact details, including the mobile number and residential address to the Investigating Officer; and

(ii) the petitioners shall not directly or indirectly make any inducement threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

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

Send back the case diary.

JUDGE

Comparing Assistant