

GAHC010265572023



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

Case No. : Bail Appln./4288/2023

GOLAP HUSSAIN AND ANR.
S/O LATE MAHAR UDDIN @ MAHIR UDDIN,
VILL.- KOKILA MAJ PARA,
P.O.- KOKILA,
P.S.- ABHAYAPURI,
DIST.- BONGAIGAON (ASSAM), PIN- 783392.

2: RAKIBUL ISLAM
S/O GOLAP HUSSAIN

VILL.- KOKILA MAJ PARA

P.O.- KOKILA

P.S.- ABHAYAPURI

DIST.- BONGAIGAON (ASSAM)
PIN- 783392

VERSUS

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

Advocate for the Petitioner : MR. S A B KHABIR

Advocate for the Respondent : PP, ASSAM

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

ORDER

14.12.2023

Heard Mr. A.S. Ali, learned counsel for the petitioners. Also heard Mr. P. Borthakur, 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. Golap Hussain and 2. Rakibul Islam, who are detained behind the bars since 17.11.2023 (for last 28 days) in connection with Barpeta P.S. Case No. 548/2023 under Section 365/343/34 of the Indian Penal Code.

The gist of accusation against the present petitioners is that on 15.11.2023, one Musst. Saheba Begum had lodged an FIR before the Officer-In-Charge of Barpeta Police Station, *inter-alia*, alleging that on 14.11.2023, there was a quarrel between the husband of the first informant and her elder son Sofikul Ali and soon that quarrel resulted into an altercation and that altercation the husband of the first informant sustained injury and later on, the husband was taken to the hospital where he succumbed to his injuries.

It is further stated in the FIR that the petitioner No. 1, who is also named as accused No. 1 in the FIR, had also lodged an FIR against the first informant and her son regarding that incident. It is only after lodging of FIR by the present petitioner, the first informant had lodged FIR against the petitioner on 15.11.2023.

Thereafter, on 15.11.2023, when the son of the first informant, namely, Sofikul Ali had informed the first informant that the present petitioners along

with some unknown accused persons have kidnapped the son of the first informant.

Learned counsel for the petitioners has submitted that the present FIR is a counter-blast against the FIR filed by the petitioner No. 1 against the first informant, namely, Saheba Begum and her son Sofikul Ali.

Learned counsel for the petitioners has also submitted that the petitioners are detained behind the bars for last 28 days and considering the period of detention they may be allowed to go on bail.

On the other hand, Additional Public Prosecutor has produced the case diary of Barpeta P.S. Case No. 548/2023 and has submitted that the Investigating Officer has already recorded the statement of both the present petitioners under Section 161 of the Code of Criminal Procedure, 1973 and it is also submitted that there are materials to suggest that the son of the first informant is avoiding arrest as he has been named as one of the main accused for killing his father

Learned counsel for the petitioners has submitted that otherwise the Investigating Officer has recorded the statement of the witnesses.

Considering the progress made in the investigation and considering the facts and circumstances of this case as well as the period of detention already undergone by the petitioners, further custodial detention of the above named petitioners does not appear to be necessary for the sake of fair completion of the investigation of Barpeta P.S. Case No. 548/2023.

In view of above, both 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 Barpeta P.S. Case No. 548/2023 as and when required by the Investigating Officer for the purpose of fair completion of investigation of the case;

(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