

GAHC010266772022



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

Case No. : Bail Appln./3632/2022

HASMAT ALI AND 5 ORS.
S/O LT. RIAZUDDIN AHMED
R/O VILL- 1 NO. KUWARPUR
P.S. HAJO
DIST. KAMRUP (R), ASSAM

2: MD. TUFAN ALI
S/O MD. AKMAT ALI
R/O VILL- 1 NO. KUWARPUR
P.S. HAJO
DIST. KAMRUP (R)
ASSAM

3: MD. MOIDUL ISLAM
S/O MD. MAYNAL ALI
R/O VILL- HABLAKHA
P.S. HAJO
DIST. KAMRUP (R)
ASSAM

4: MD. MAYNAL ALI
S/O LATE MOKBUL ALI
R/O VILL- HABLAKHA
P.S. HAJO
DIST KAMRUP (R)
ASSAM

5: MD. GAFUR ALI
S/O MD. CHAND MAHAMMAD
R/O VILL- KHOPNIKUCHI
P.S. HAJO
DIST. KAMRUP (R)
ASSAM

6: MD. INSAN ALI
S/O LATE AMAN ALI
R/O VILL-MAYANG GASBARI
P.S. MANGALDOI
DIST. DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A KADDUS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

10.01.2023

Heard Mr. A. Kuddus, learned counsel for the accused-petitioners and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioners viz. 1) Md. Hasmat Ali, 2) Md. Tufan Ali, 3) Md. Moidul Islam, 4) Md. Maynal Ali, 5) Md. Gafur Ali, and 6) Md. Insan Ali have prayed for their release on bail in connection with Khetri Police Station Case no. 197/2022, registered under Sections 457/380/411, Indian Penal Code [IPC].

3. The accused-petitioners were arrested and produced before the Court of learned Chief Judicial Magistrate, Kamrup [M], Guwahati on 04.12.2022 and on being so produced, the accused-petitioners were remanded to custody.

4. As per the First Information Report [FIR], there was theft in the training institute run

by the informant at Nalgedera, Kamrup. Several items, as listed in the FIR, were stolen from the training institute. The informant has stated that the local people of the area saw the thief stealing from the training institute but they could not capture him as the thief ran away leaving a vehicle near the training institute. The thief was identified as one Mainul Ali who works under the accused-petitioner no. 1.

5. The materials available in the case diary, collected during the investigation carried out so far, go to indicate that the accused-petitioner no. 1, Hasmat Ali is a scrap dealer and other accused-persons are hawkers/traders under him. A part of the stolen articles have been recovered from the scrap store [damp] operated by the accused-petitioner no. 1. It has emerged that some of the stolen articles were sold away by the other accused-petitioners.

6. The learned counsel for the accused-petitioners has submitted that all the accused-petitioners are local residents of Hajo except the accused-petitioner no. 6 who is the resident of Mangaldai, District – Darrang. The accused-petitioner nos. 2 – 6 are the traders/hawkers who deal in scrap items with the accused-petitioner no. 1.

7. Considering the progress made in the investigation and the period of detention of the accused-petitioners for 36 days since 04.12.2022, this Court is of the considered view that further custodial detention of the accused-petitioners are not necessary for the purpose of carrying out further investigation of the case and their release on bail, at this stage of investigation, is unlikely to bring any adverse effect in the further investigation of the case, provided they continue to extend their assistance and co-operation in the further investigation of the case.

7. Accordingly, it is directed that the accused-petitioners shall be released on bail on furnishing a bail bond of Rs. 25,000/- each with one local surety each of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup [M], subject to the conditions that :-

[i] the accused-petitioners shall co-operate with the investigation and make themselves available for interrogation whenever required by the Investigating Officer [I.O.] of the case;

[ii] the accused-petitioners shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer;

[iii] the accused-petitioners shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the accused-petitioners shall maintain law and order and they shall not commit an offence similar to the offence of which they are accused, or of the commission of which they are suspected; and

[v] the accused-petitioners shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

8. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant