

GAHC010269172023



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

Case No. : Crl.Rev.P./509/2023

APPAN HUSSAIN LASKAR
S/O KALU MIA LASKAR
PERMANENT RESIDENT OF BAGHA BAZAR, P.O. BAGHA BAZAR,
P.S.DHOLAI
DIST. CACHAR, ASSAM
PIN-788120

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. I ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 01.12.2023

1. Heard Mr. I. Alam, learned counsel for the petitioners. Also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam.

2. The petitioners have filed this application under Section 401 read with Section 482 Cr.P.C., 1973 challenging the order dated 17.11.2023 passed in Special Case No.132/2022 by the learned Sessions Judge, Karimganj rejecting the bail bond of the petitioner observing that the bail bond did not meet the condition specified by this Court.

3. Learned Additional Public Prosecutor has accepted notice on behalf of respondent No.1, therefore no formal notice is required to be issued to the respondent No.1.

4. I have considered the submissions at the Bar. Vide order dated 10.11.2023, the Coordinate Bench of this Court in Bail Appln No. 3436/2023 enlarged the present petitioners on bail observing that-

“Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of Rs.1,00,000/- (Rupees One Lac) only with two government servant sureties of like amount, as submitted by the learned counsel for the accused petitioner, to the satisfaction of the learned Special Judge (NDPS Act), Karimganj subject to the following conditions-

- i) That the accused petitioner shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of;
- ii) That the accused petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witnesses, who are acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court; and
- iii) That the accused petitioner shall refrain from committing any offences similar to the one of which he is accused of commission.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.”

5. When the petitioner applied for acceptance of bail bond the learned trial Court vide order dated 17.11.2023 observed that:

“Perused the certified copies of the order dated 10/11/2023 passed in Bail Appln. 3436/2023 and order dated 10/11/2023 passed in Bail Appln. 3326/2023 of Hon’ble Gauhati High Court wherein the accused Appan Hussain Laskar and Habijul Alom Laskar respectively were allowed to go on bail of Rs.1,00,000/- each with two government servant sureties each of like amount with specified conditions mentioned therein.

Considering all, bail bonds are rejected as the per month gross salaries of all the bailors is below

Rs.1,00,000/- and hence does not meet the required bail conditions as specified by Hon'ble High Court.”

6. It is submitted on behalf of the petitioner that nowhere in the order dated 10.11.2023 in connection with the Bail Application No.3436/2023, it was mentioned that the gross salary of the government servant has to be Rs.1,00,000/-. The petitioners were enlarged on bail after the petitioner furnishes bail bond of Rs.1,00,000/- and the surety ought to be government sureties.

7. The petitioner has appended the salary certificates of the government sureties namely Taibut Rahman Laskar, an Assistant Teacher and Anam Uddin Barbhuiya who is also an Assistant Teacher and their net salary tantamount to Rs.59,021/- P.M and Rs.43,787/- PM respectively.

8. The gross salary of Taibut Rahman Laskar amounts to Rs.67,429/- PM and Anam Uddin Barbhuiya amounts to Rs.48,787/- PM.

9. I have scrutinized the pay slips marked as Anneure-9 series of the petition. It appears that the petitioner has provided sufficient sureties to entitle him to bail.

10. I have also taken a pragmatic view. The petitioner is willing to cooperate with the trial. I believe this is a fit case to invoke inherent jurisdiction under Section 482 Cr.P.C. and set aside the impugned order to prevent the abuse of the process of the Court. Impugned order dated 17.11.2022 passed in Special Case No.132/2022 by the learned Sessions Judge is set aside. The aforementioned bail bonds (Annexure-9) furnished by the Asstt. teachers namely, Taibut Rahman Laskar and Anam Uddin Barbhuiya may be accepted by the Court.

The petition is accordingly disposed of.

JUDGE

Comparing Assistant