

GAHC010278292023



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

Case No. : I.A.(Crl.)/1227/2023
In Bail Appln./2035/2021

RAKESH BORGOHAIN AND ANR
S/O LT. MOHI BORGOHAIN,
R/O RANGIA MANCHA PATH, RUKMINI NAGAR, DISPUR BASISTHA ROAD,
P.S. DISPUR, DIST. KAMRUP (M), ASSAM

2: NAYANIKA BARUAH
W/O RAKESH BORGOHAIN
R/O RANGIA MANCHA PATH
RUKMINI NAGAR, DISPUR BASISTHA ROAD
P.S. DISPUR, DIST. KAMRUP (M), ASSAM

VERSUS

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

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

22.12.2023

Heard Mr. D.K. Baidya, learned counsel for the applicants. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application has been filed by the applicants, namely, (1) Rakesh

Borgohain and (2) Nayanika Baruah @ Nayanika Borogohain, praying for relaxation of condition No.(b) of paragraph No.17 of the order dated 09.09.2021 passed by this Court in Bail Appln. No.2035/2021 whereby the present applicants were directed to deposit their Passport before the Trial Court.

The above condition was imposed by this Court while granting bail to the present applicants in NDPS Case No.151/2021 arising out of Latasil P.S. Case No.282/2021 pending before the learned Special Judge, NDPS (Additional District and Sessions Judge No.5) Kamrup (Metro).

Learned counsel for the petitioner has submitted that the sister of the applicant No.2 is a permanent resident of United States of America and recently she has given birth to a girl child and therefore, the present applicants intend to visit United States of America where the sister of the applicant No.2 resides.

It is further submitted that the process of obtaining Visa for visiting United States of America is cumbersome process where Passport needs to be submitted. It is also submitted that the Passport of the present applicants also needs to be renewed and therefore, the applicants are praying for relaxation of Condition No.(B) mentioned in paragraph No.17 of the order dated 09.09.2021 regarding deposit of Passport before the Trial Court.

Learned counsel for the applicants has submitted that in the meanwhile, one of the co-accused, namely Vikas Jain @ Vikash Jain on whom also similar condition was imposed by this Court while granting him bail, had approached this Court for relaxation of the condition of deposition of Passport before the Trial Court and by order dated 27.06.2023 passed in I.A.(CrI.) No.538/2023, the prayer for relaxing the condition regarding deposit of Passport before the Trial Court was relaxed.

Learned counsel for the applicants has submitted that the applicants have

already deposited their Passport before the Trial Court while submitting the bail bond.

Learned Additional Public Prosecutor, considering the grounds mentioned in the Interlocutory Application, does not oppose the prayer for release of the Passport to the present applicants. However, he makes a submission that the applicants should not violate the other conditions which were imposed on them while granting bail.

In view of the submissions made by the learned counsel for both the sides and in view of the fact that the applicants need to visit United States of America for the purpose mentioned in the Interlocutory Application, this Court is of the considered opinion that if the other conditions imposed on the applicants in the order dated 09.09.2021 passed in Bail Appln. No.2035/2021 are complied with, their presence during the trial may be secured.

Accordingly, the condition No.(b) of paragraph No.17 of the order dated 09.09.2021 passed in Bail Appln. No.2035/2021, is hereby modified and the Trial Court is hereby directed to release the Passport of the applicants by retaining legible copy thereof with the case record.

With the above observations, this Interlocutory Application is hereby disposed of.

JUDGE

Comparing Assistant