

GAHC010285112023



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

Case No. : Crl.Pet./1344/2023

SAMSUL HOQUE AND ANR
S/O MAHAMAD AINUDDIN
R/O VILL- DAKHINGAON, NEAR BURHA MASJID,
P.O. KAHILIPARA, P.S. DISPUR, DIST. KAMRUP (M), ASSAM, PIN-782104

2: SHAHANUR ISLAM
S/O MAHAMAD AINUDDIN
R/O VILL- DAKHINGAON
NEAR BURHA MASJID

P.O. KAHILIPARA
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM
PIN-78210

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K H KHANDAKAR

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 18.12.2023

Heard Mr. K. M. Hassan, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This application under section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioners impugning the orders dated 25.08.2023 and 13.10.2023 passed by learned Additional Chief Judicial Magistrate, Barpeta in PRC Case No. 318/2021, whereby the learned Committal Court had issued non bailable warrant of arrest against the present petitioners.

Learned counsel for the petitioners has submitted that the present petitioners, namely, 1. Samsul Hoque, and 2. Shahanur Islam, both are shown as absconder in column no. 2 of the charge-sheet which has been laid against the present petitioners and four other persons under Section 147/148/149/325/365 and 307 of the Indian Penal Code.

Learned counsel for the petitioners has submitted that though by order dated 25.08.2023, learned Committal Court i.e. the Court of learned Additional Chief Judicial Magistrate, Barpeta had issued non bailable warrant against the present petitioners, the petitioners never received any summons from the learned Committal Court.

It is further submitted by learned counsel for the petitioners that the next date of the PRC Case No.318/2021 is fixed on 20.12.2023 and the petitioners are ready to appear before the learned Committal Court and ready to face trial, however, they seek some protection from this Court. The learned counsel for

the petitioners also submits that the other four accused persons who are named in the charge-sheet are already on bail.

The learned counsel for the petitioners has also submitted that a direction may be given to the learned Trial Court that on appearance of the petitioners before the learned Committal Court, the petitioners may be allowed to go on bail.

Learned Additional Public Prosecutor, on the other hand, though does not have any objection on the prayer for allowing interim protection for their appearance before the Committal Court, opposes any direction from this Court to the learned Committal Court for releasing the present petitioners on bail.

I have considered the submissions made by learned counsel for both the sides.

As the learned Committal Court is competent enough to consider the prayer for bail, if any filed by the petitioners, and as at present there is no bail application pending before any court filed by the present petitioners, the question of issuing such direction for releasing the present petitioners at this stage does not appear.

However, considering the submissions made by the learned counsel for the petitioners that they are ready to face trial and they are ready to appear before the learned Committal Court, this Criminal Petition is hereby disposed of with a direction to the petitioners to appear before the learned Committal Court within 7 days from the date of this order. To facilitate such appearance before the learned Committal Court, the nonailable warrant issued against the present petitioners by the learned Committal Court shall be kept in abeyance for next 15 days, on their appearance before the learned Committal Court. The petitioners may file any appropriate application seeking any suitable relief before the Committal Court, if so advised.

With the above observation, this Criminal Petition is hereby disposed of.

JUDGE

Comparing Assistant