

GAHC010001882024



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

Case No. : Bail Appln./82/2024

SAHAR ALI AND 2 ORS
S/O LATE ATAP UDDIN
R/O 2 NO. KARUNA BARI
P.S. LALUK
DIST. LAKHIMPUR, ASSAM

2: MUSFIKUR RAHMAN
S/O IMRAN ALI
VILL- SONAPUR RESERVE GAON
P.S. BIHPURIA
DIST. LAKHIMPUR
ASSAM

3: JAGIR ALI
S/O ISMAIL ALI
VILL- 2 NO. KARUNA BARI
P.S. LALUK
DIST. LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 17.02.2024

Heard Mr. A. Paramanik, learned counsel for the petitioners. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 439 of the Code of Criminal Procedure, 1973 praying for grant of bail to the accused/petitioners, who have been arrested on 26.12.2023 in connection with Garchuk P.S. Case No. 371/2023, under Sections 120(B)/420/489(b)/489(c) of the Indian Penal Code.

It is submitted by Mr. Paramanik, learned counsel for the petitioners, that from the plain reading of the F.I.R. also, it is seen that Sections 420/489(b) of the Indian Penal Code do not attract against the present accused/petitioners and there is no delivery of fake currency or fake gold to anyone and it may be a case under Section 489(c) IPC only, which is bailable in nature. The accused/petitioners are behind the bar for last 54 days and hence, considering their length of detention, they may be enlarged on bail.

In this context, Mr. Kaushik, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials against the present accused/petitioners in the Case Diary. Further from the report of the Bank, it is seen that all the currencies, which were recovered from the possession of the accused/ petitioners, are fake, though the FSL report is yet to be received. He

further submitted that it is a case wherein the accused/petitioners were possessing fake currency and fake gold which were supposed to be used in the market or otherwise they were doing trafficking of those fake currency and fake gold and thus, Section 489(b) IPC attracts against the accused/petitioners. However, he submitted that from perusal of the Case Diary, it is seen that there is no direct allegation brought against the petitioner No. 2 and he was arrested by the police as he was a resident of the lodge at the time of investigation by the I.O. and thus, it is submitted that there is no incriminating materials collected so far by the I.O. against the petitioner No. 2 and accordingly, raised no objection in allowing the petitioner No. 2 to go on bail.

After hearing the submissions made by the learned counsels for both sides and also on perusal of the Case Diary, it is seen that there are sufficient incriminating materials collected by the I.O. against the petitioner Nos. 1 & 3. However, there is no such incriminating material against the petitioner No. 2. Further it is seen that these kind of offences are considered as an organized crime and hence, to unearth some facts of the case, further custodial detention of the accused/petitioner Nos. 1 & 3 may be required for the interest of just and proper investigation of the case.

In view of above, I do not find it appropriate to allow the accused/petitioner Nos. 1 & 3, namely, (i) Sahar ali & (ii) Jagir Ali, to release on bail at this stage.

However, in case of accused/petitioner No. 2, namely, Musfikur Rahman, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief

Judicial Magistrate, Kamrup (M), Guwahati, he shall be enlarged on bail.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant