

GAHC010010902024



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

Case No. : Bail Appln./186/2024

GANESH BRAHMA @ GANESH BORO AND ANR
S/O LT. SACHIMOHON @ SACHIMOHON BRAHMA @ BORO,
R/O VILL- BANGALDOBA PT.I, P.S. KOKRAJHAR, IN THE KOKRAJHAR
DISTRICT OF ASSAM.

2: JITEN BORO @ JITEN BRAHMA
S/O LT. AJIT BORO @ AJIT BRAHMA
R/O VILL- BANGALDOBA PT.I
PS. KOKRAJHAR
IN THE KOKRAJHAR DISTRICT OF ASSA

VERSUS

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

Advocate for the Petitioner : MR A W AMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 25-01-2024

Heard Mr. S. Nawaz, learned counsel for the petitioners Ganesh Brahma @ Ganesh Boro and Jiten Boro @ Jiten Brahma.

2. The petitioners have filed this application under Section 439 of the Code of

Criminal Procedure with prayer for bail as they are behind bars since 02.11.2023 in connection with Chapar Police Station Case No. 279/2012 under Sections 120(B)/147/148/302 and 201 of the Indian Penal Code read with Section 27 of the Arms Act with amalgamated Chapar Police Station Case No. 280/2012.

3. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent State of Assam.

4. I have considered the submissions at the bar with circumspection.

5. It is submitted at the bar that this is an old case arising out of an FIR which was lodged in the year 2012. Investigation is still going on without any closure. After a long span both the petitioners were arrested in connection with this case.

6. It is submitted by the learned Additional Public Prosecutor that there are incriminating materials in the case diary against the present petitioners.

7. I have considered the submissions that this case is relating to communal riots in the year 2012 and a group clash. It is submitted that the petitioners are not complicit. They are the sole breadwinners of their families. They are behind bars for 84 (eighty four) days. Their families are suffering immensely as they are behind bars for 84 (eighty four) days. The petitioners are not responsible for the death of Javed Ali and Ismail Sheikh despite the fact that they have been present in the mob.

8. I have perused the case diary. Indeed there are incriminating materials in the case diary against the petitioners. However, I have also considered the length of detention. The petitioners are behind bars for 84 (eighty four) days. Charge sheet is not yet submitted. The petitioners have pledged to cooperate with the investigation as well as with the trial. The petitioners are local residents

and it is submitted that they will not jump the bail.

9. Considering all aspects and in view of my foregoing discussions, both the petitioners are enlarged on bail on furnishing a bail bond of *Rs.50,000/- (Rupees Fifty Thousand)* each with a suitable surety of like amount to the satisfaction of learned Sub-Divisional Judicial Magistrate, Bilasipara under the conditions that:

1. The petitioners shall cooperate with the remaining part of the investigation as well as wit the trial.
 2. The petitioners shall not leave the jurisdiction of the Court without prior permission till completion of the trial.
 3. The petitioners shall not influence the witnesses or exercise threats to the witnesses.
10. On breach of any of the bail conditions, bail order shall stand cancelled.
- In the above terms this Bail Application stands disposed of.

JUDGE

Comparing Assistant