

GAHC010073632024



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

Case No. : Bail Appln./1050/2024

BISHWAJIT DAS AND ANR.

S/O AJIT DAS,

R/O NAGAON, BORDUA, NEAR FLYOVER, DIST.- NAGAON, ASSAM.

PRESENT ADDRESS- BHASKAR NAGAR, H/NO. 7, LALGANESH, P.O.-

FATASIL AMBARI, P.S.- FATASIL AMBARI, DIST.- KAMRUP (M), ASSAM, PIN-781025.

2: SABITA DEB @ SABITA DAS

W/O BISWAJIT DAS

R/O LAMDING PAMRUT

PRESENT ADDRESS- BHASKAR NAGAR

H/NO. 7

LALGANESH

P.O.- FATASIL AMBARI

P.S.- FATASIL AMBARI

DIST.- KAMRUP (M)

ASSAM

PIN- 781025

VERSUS

THE STATE OF ASSAM

REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR A H AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

26.04.2024

Heard Mr. A.H. Ahmed, learned counsel for the accused and Ms. N. Das, learned Additional Public Prosecutor, Assam for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Bishwajit Das and Sabita Deb @ Sabita Das who have been languishing in jail hazot since 12.02.2024 in connection with Dispur Police Station Case no. 118/2024 registered under Section 365 of the Indian Penal Code, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Ashok Shah on 11.02.2024. The essence of allegation made in the aforesaid FIR is that on that day, at about 12:30 p.m., one stranger had kidnapped his 18 months old daughter from the footpath, while she was playing there.

4. Mr. Ahmed, learned counsel for the accused submits that both the accused were arrested on 12.02.2024 and since then, they have been languishing in jail hazot for more than 70 days and that the case has been registered under Section 367, IPC and the maximum period of punishment prescribed for the said offence is 7 [seven] years and as such, the mandatory period of detention is 60 days. Mr. Ahmed submits that since the accused have been languishing in jail hazot for more than 60 days and no charge sheet has been submitted herein in this case, the accused-petitioners are entitled to default bail. Mr. Ahmed further submits that one of the co-accused, namely, Jelimon Begum has already been enlarged on bail by this Court vide order dated 22.04.2024 in B.A. no. 1034/2024 therefore, he has contended to allow the petition.

5. On the other hand, Ms. Das, learned Additional Public Prosecutor has submitted that though the case diary was called for, the same has not yet been received.

6. Having heard the learned advocates of both sides I have carefully gone through the petition as well as the documents placed on record.

7. It appears that both the accused were arrested on 12.02.2024 and since then, they are languishing in jail hazot for more than 70 days. Further, it appears that the case has been registered under Section 365, IPC and the mandatory period of detention for the said offence is 60 days and since no charge sheet has been submitted till date, the accused-petitioners are entitled to default bail.

8. Accordingly, it is provided that on furnishing a bond of Rs. 50,000/- (rupees fifty thousand) each with one surety each of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati, the accused, namely, Bishwajit Das and Sabita Deb @ Sabita, be enlarged on bail.

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

JUDGE

Comparing Assistant