

GAHC010085232024



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

Case No. : Bail Appln./1247/2024

MD. BABUL ALI AND 2 ORS.
S/O LATE AJID ALI
VILL- AGGUMI MAJGUMI
P.S. CHAYGAON
DIST. KAMRUP, ASSAM

2: MD. BADAR UDDIN
S/O LATE SATTER ALI
VILL- AHATA
P.S. MUKALMUA
DIST. NALBARI
ASSAM

3: MD. JURAN ALI
S/O LATE BAHEJ ALI
VILL- TATABORI
P.S. HAJO
DIST. KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MD K RAHMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 02.05.2024

Heard Mr. K. Rahman, learned counsel for the petitioners. Also heard Mr. P. Borthakur, 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 in connection with Dharamtul P.S. Case No. 08/2024, under Section 395 of the Indian Penal Code, corresponding to G.R. Case No. 168/2024.

As the Case Diary is already available in the Court, same has been perused and heard both sides.

It is submitted by Mr. Rahman, learned counsel for the petitioners, that the present accused/petitioners are innocent and they are not involved in the alleged offence. However, they are behind the bar for last 74 days including 14 days of police remand. Thus, the I.O. got sufficient opportunity to interrogate all the present accused/petitioners keeping them in custody. However, they are still ready and willing to co-operate the I.O. in the further investigation of the case if they are granted with the privilege of bail.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials against the present

accused/petitioners and they are directly involved in the hijacking of the truck. However, he submitted that there is no note from the I.O. that the Charge-Sheet will be filed within short period or within the statutory period. Further, he submitted that there are substantial progress in the investigation of this case, though huge quantity of Areca Nuts are yet to be recovered.

After hearing the submissions made by the learned counsels for both sides, it is seen that there are sufficient incriminating materials against the present accused/petitioners. However, it cannot be denied that all the accused/petitioners were in police custody for 14 (fourteen) days and they are behind the bar for a considerable period. From the Case Diary, it is also seen that there are sufficient progress in the investigation of this case, though some quantity of theft Areca Nuts are yet to be recovered. However, considering the length of detention already undergone by the accused/petitioners, I am of the view that the I.O. has got ample opportunity to interrogate the accused/petitioners keeping them in custody and accordingly, I find that further custodial interrogation of the accused/ petitioners is not necessary here in this case for the interest of investigation.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Morigaon, the accused/petitioners, namely, (i) Md. Babul Ali, (ii) Md. Badar Uddin & (iii) Md. Juran Ali, be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall fully co-operate with the investigation of the case and shall also make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioners shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Morigaon, without prior permission.

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

JUDGE

Comparing Assistant