

GAHC010086422024



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

Case No. : Bail Appln./1244/2024

SAMAR ALI AND ANR.
S/O LATE KARAM ALI
VILL- KEOT CHUBA
P.O. NIZ KHARUPETIA
P.S. DHULA
DIST. DARRANG, ASSAM

2: ABUL HUSSAIN
S/O LATE JAMUR UDDIN
VILL AND P.O. NIZ KHARUPETIA
P.S. DHULA
DIST. DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS. R DEVI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

10.05.2024

Heard Mrs. R. Devi, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, 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/petitioner, who has been languishing in jail hazot in connection with Jogighopa P.S. Case No. 53/2024, under Section 392 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mrs. Devi, that the accused/petitioners are innocent and they are not at all involved in the alleged offence. She also submitted that the petitioner No.1 is a daily labour and without any knowledge he simply unloaded 100 bags of areca nuts; and the petitioner No.2 is the bonafide purchaser of said areca nuts and he is known to one of the co-accused. Later on, the petitioner No.2 came to know that he had purchased the stolen areca nuts and the police had already recovered 100 bags of areca nuts from his possession. More so, they are behind the bar since 25.03.2024 and 28.03.2024 respectively and accordingly, considering the length of detention undergone by the accused/petitioners, they may be enlarged on bail as the I.O. has got sufficient time for their custodial interrogation. He further submits that the petitioners are still ready and willing to co-operate the IO with further investigation of this case, as and when their presence will be needed.

On the other hand, the learned Additional Public Prosecutor, Mr. Parasar, has submitted that 425 bags of stolen areca nuts have already been recovered by the

police during the investigation. Also, from the Case Diary, it is seen that the petitioner No.1 is a daily labour and simply unloaded 100 bags of supari in the house of the petitioner No.2; whereas, the petitioner No.2 had purchased the stolen areca nuts. He also submitted that the main culprit of this case is yet to be booked by the police in connection with this case. Further, he submits that considering the length of detention undergone by the accused/petitioner, their prayer may be considered.

Considering the submissions of learned counsels for both sides and also considering the materials available in the Case Diary and further 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 in the custody and accordingly, further custodial interrogation of the accused/petitioners seems to be not necessary here in this case.

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, North Salmara, Abhayapuri, the accused/petitioners, namely, **1. Samar Ali** and **2. Abul Hussain**, be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall 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 them from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the learned Chief Judicial Magistrate, North Salmara, Abhayapuri, without prior permission.

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

JUDGE

Comparing Assistant