

GAHC010090002024



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

Case No. : Bail Appln./1295/2024

MD. RAJAK ALI
S/O RAJAB ALI
RESIDENT OF VILLAGE BHOGDEA. PS SARTHEBARI, DIST BARPETA
ASSAM

2: MD. AMIR HAMZA
S/O KASEM ALI
RESIDENT OF VILLAGE SONUATARI
PS TARABARI
DIST BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

13.05.2024

Heard Mr. B. Chowdhury, learned counsel for the accused and also heard Mr. K.K.

Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by two accused, namely, Md. Rajak Ali and Md. Amir Hamza, who have been languishing in jail hazot since 06.04.2024, in connection with Satgaon P.S. Case No.31/2024 under Section 379 IPC, 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 Kuddus Ali, on 28.02.2024. The essence of allegation made in the aforesaid FIR is that on the night of 27.02.2024, at about 12:50 a.m., some miscreants have stolen his Bolero pickup vehicle, bearing Registration No.AS-01-7662, which was being parked on the side of Satgaon-Nowapara road.

4. Mr. Chowdhury, learned counsel for the accused persons, submits that the accused persons were arrested on 06.04.2024 and since then they have been languishing in jail hazot. Mr. Chowdhury further submits that the accused persons were earlier arrested in connection with Bhangagarh P.S. Case No.24/2024, registered under Section 379 IPC and in the said case the accused persons were already granted bail by the learned Additional Sessions Judge (FTC) No.3, Kamrup(M), in Bail Application No.281/2024 and that in the present case both the accused were shown as arrested on 06.04.2024. Mr. Chowdhury further submits that the accused persons are innocent and they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. K.K. Das, learned Additional Public Prosecutor, Assam, submits that the I.O. has collected sufficient incriminating materials against the present accused persons and that the stolen vehicle, bearing Registration No.AS-01-7662 has already been recovered and in view of the materials collected so far in the case diary, Mr. Das contended to dismiss the petition.

6. Having heard the submissions of learned Advocates of both sides, I have carefully

gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Das, learned Additional P.P.

7. It appears that both the accused were shown arrested here in this case on 06.04.2024 and since then they are languishing in jail hazot for last 38 days. Further, it appears from the case diary that the stolen vehicle has already been recovered and seized by police and in view of the period of detention of the accused persons in jail hazot for 38 days, and also in view of the progress of investigation, their further custodial detention, in the interest of investigation, seems to be not warranted here in this case and accordingly, this Court is inclined to allow this petition.

8. It is provided that on furnishing a bond of ₹ 50,000/- each, with one surety of the like amount to the satisfaction of the learned C.J.M., Kamrup (M), both the accused, namely, Md. Rajak Ali and Md. Amir Hamza, shall be enlarged on bail.

9. In terms of above, this bail application stands disposed of. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant