

GAHC010096612024



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

Case No. : Bail Appln./1385/2024

KILUWAR ALI @ KILWAR ALI @ KILU AND ANR.
S/O LATE USMAN ALI
R/O VILL- CHATIA, CHARAIJANIA GAON,
P.S. CHATIA,
DIST. SONITPUR, ASSAM

2: TAIJUL ISLAM @ TAIZUL ISLAM
S/O JAMSED ALI
VILL- GERUAMUKH P.S. KHATAWAL
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. A. MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

24.06.2024

1. Heard Ms. A. Medhi, learned counsel for the petitioners and also heard

Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Kiluwar Ali @ Kilwar Ali @ Kilu and 2. Taijul Islam @ Taizul Islam, who are detained behind the bars since 03.05.2024(for last 52 days), in connection with Geetanagar P.S. Case No. 321/2023, under Section 420/406/34 of the Indian Penal Code.

3. The gist of accusation in this case is that on 07.12.2023, one Sri Bibek Chetry had lodged an FIR before the Officer-In-Charge of Geetanagar Police Station, *inter alia*, alleging that one of the friend of the first informant, namely, Tikendrajit Boro had introduced him to one Rajesh Nath@ Rishi informing him that if he gives his documents to the said Rajesh Nath his agency will purchase a bike in his name by paying the down payment of Rs. 30,000/- and also by paying the EMI in three months.

4. Accordingly, the informant gave his Aadhaar Card, PAN Card and Bank documents, it is also alleged in the FIR that thereafter, the said Rajesh Nath and his accomplice purchased the bike on 25th October, by paying the down payment of Rs. 50,000/- and that along with the bike and only Rs. 3,000/- to the first informant.

5. It is also alleged that neither the bike was handed over nor EMI was paid against the said loan and when the first informant contact the said Rajesh Nath, he was found to be switched off.

6. Learned counsel for the petitioners has submitted that nothing was seized from the possession of the present petitioners and they are not involved in the offence alleged in the said FIR.

7. It is also submitted by the learned counsel for the petitioners that the

offence involved in this case are under Section 420/406 of the Indian Penal Code, for which the maximum statutory period for detention is 60 days only and the above-named petitioners have already completed 52 days behind the bars.

8. It is also submitted by the learned counsel for the petitioners that in the meanwhile, Rajesh Nath@ Rishi, who was also apprehended in connection with this case, has already been granted bail by the Trial Court.

9. On the other hand, learned Additional Public Prosecutor, has submitted that there are materials in the case diary against the petitioners and they are members of a racket, who in similar activity of duping the innocent poor people of their hard earned money.

10. It is submitted by the learned Additional Public Prosecutor that similar other cases were filed and the modus operandi of the offenders are to dupe the innocent persons and then purchase the bikes out of the loan amount procured in their name and thereafter, sell the said bikes to different parts of North Eastern States. He has submitted that the investigation of this case is still going on and some of the co-accused are yet to be arrested.

11. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record, including the case diary of Geetanagar P.S. Case No. 321/2023. Though there are some materials against the present petitioners in the case diary, however, considering the fact, that one of the main accused of this case, namely, Rajesh Nath@ Rishi has already been granted bail. Moreover, considering the progress made in the investigation as well as the period of detention already undergone by the petitioners, this Court is of the considered opinion that further custodial detention of the above-named petitioners may not be necessary if they co-operate in the investigation.

12. In view of above, the above-named petitioners are hereby allowed to go on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M), Guwahati with conditions that:-

(i) the petitioners shall co-operate in the investigation;
and (ii) the petitioners shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

13. With the above observations, this bail application is hereby disposed of.

14. Send back the case diary.

JUDGE

Comparing Assistant