

GAHC010098832024



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

Case No. : Bail Appln./1424/2024

SHAHJAHAN ALI MANDAL @ SHAJAHAN MONDAL AND 2 ORS
S/O LATE ABDUL AHED MANDAL
R/O VILL- CHIKIBIBI
P.S. AND DIST. BONGAIGAON, ASSAM
PIN-783380

2: JALENUR MANDAL @ JOLENUR MONDAL
S/O LATE ABDUL AWAL MANDAL
R/O VILL- CHIKIBIBI
P.S. AND DIST. BONGAIGAON
ASSAM
PIN-783380

3: ROFIQUL MANDAL @ RAFIKNUR MANDAL
S/O ABDUL AWAL MANDAL
R/O VILL- CHIKIBIBI
P.S. AND DIST. BONGAIGAON
ASSAM
PIN-78338

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 27.06.2024

Heard Mr S.C. Biswas, learned counsel for the petitioners.

2. The petitioners have filed this application under Section 439 Cr.P.C., with prayer for bail, as they are behind bars since 31.03.2024 & 04.04.2024, in connection with Bongaigaon P.S. Case No. 115/2024, registered under Sections 447/302/34 of the Indian Penal Code, 1860.

3. Heard Mr. K.K. Parasar, learned Additional Public Prosecutor for the State of Assam/respondent.

4. The allegation against the petitioners is that they along with co-accused named in the FIR armed with heavy bamboo and iron rods attacked Amzad Ali Sheikh. When the father of Amzad Ali Sheikh and other relatives tried to stop the attack, they were also attacked in the process. The victim Amzad Ali Sheikh was taken to the Bongaigaon Civil Hospital but he was declared as dead.

5. It is submitted by the learned counsel for the petitioners that charge-sheet has not been laid against the petitioners. He further submits that the petitioners have been behind bars for last 84 and 87 days respectively. The statutory period is almost over and the charge-sheet has not yet been filed. Therefore, considering the length of detention, the petitioners may be enlarged on bail.

6. The learned Additional Public Prosecutor has submitted that there

are sufficient incriminating materials in the case diary against the petitioners.

7. I have considered the submissions at the Bar with circumspection. I have also considered the submission that the petitioners are willing to cooperate with the investigation.

8. The Case Diary reveals that investigation has progressed to a considerable extent. It appears that custodial detention of the petitioners may not be required for the progress of investigation. The petitioners are the local residents and they are not a flight risks.

9. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioners namely, Shahjahan Ali Mandal @ Shajahan Mondal and Jalenur Mandal @ Jolenur Mondal and Rofiqui Mandal @ Rafiknur Mandal are enlarged on bail of Rs. 50,000/-, each with one surety each of the like amount to the satisfaction of the learned CJM, Bongaigaon, under the conditions that:-

- (i) the petitioners shall refrain from such activities, with which they are alleged;
- (ii) the petitioners shall not exercise threats to the witnesses; and
- (iii) the petitioners shall not leave the jurisdiction of the Court without prior permission, till completion of investigation.

10. Bail Application stands disposed of.

11. Send back the Case Diary.

JUDGE

Comparing Assistant