

GAHC010110022024



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

Case No. : Bail Appln./1593/2024

SAILESH GOND AND 4 ORS.
S/O JITENDAR SAH
R/O VILL- SAHAJANUWAKHRTO
P.S. KATIA
DIST. GOPALGANJ (BIHAR)

2: CHOTU KUMAR YADAV
S/O LAL BAHADUR YADAV
R/O VILL- SANKARANOUKATOLA
P.S. TOTOWARA
DIST. SIBAN (BIHAR)

3: NIRANJAN YADAV
S/O MAHESWAR YADAV
R/O VILL- MOUZI
P.S. HASANPUR ROAD

DIST. SAMASTIPUR (BIHAR)

4: ASHIS KUMAR
S/O SHIBJI KONWAR
R/O VILL- DUMRI
P.S. SIMRI
DIST. BAKSAR (BIHAR)

5: UPENDAR SAH
S/O JAGANNATH SAH
R/O VILL- SAHJANUAPUR
P.S. KATIYA
DIST. GOPALGANJ (BIHAR)

VERSUS

THE STATE OF ASSAM

REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.06.2024

- 1.** Heard Mr. R. Sarma, learned counsel for the petitioners. Also heard B. B. Gogoi, learned Additional Public Prosecutor for the State.
- 2.** This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 by the petitioners, namely, (1) Sailesh Gond, (2) Chotu Kumar Yadav, (3) Niranjana Yadav, (4) Asish Kumar, and (5) Upendar Sah.
- 3.** The petitioner Nos. 1 to 4 are detained behind the bars since 07.05.2024 (for last 43 days) and petitioner No. 5 has been detained behind the bars since 11.05.2024 (for last 39 days) in connection with Tamulpur Police Station Case No. 81/2024 under Section 120(B)/420/379/407 of the Indian Penal Code.
- 4.** The gist of accusation in this case is that on 24.04.2024, one Diganta Gogoi of Shree Gautam Construction Company Limited had lodged an FIR before the officer in charge of Tamulpur Police Station, *inter-alia*, alleging that four numbers of vehicles loaded with steel bars bearing Registration No. WB39B6517, WB917361, WB11C8492 and WB11F5907 were coming from Durgapur, West Bengal on 15.04.2024 under Alok Transport and were supposed

to arrive at the construction site of the informants' company of Tamulpur Medical College. However, one of the vehicle out of the four vehicles, namely, WB39B6517, arrived at the construction site and it was found on weighing the said vehicle that 865 kg of the steel bars was found to be less and during the interrogation the driver of the said vehicle, namely Shailesh Gond (Petitioner No. 1 herein), admitted that he had sold the said bars at Kishanganj, Bihar on the way to Tamulpur.

5. The learned counsel for the petitioners has submitted that though there is specific allegation against Petitioner No. 1 in the FIR, however, against the other petitioners there is no allegation and they were arrested merely on the basis of suspicion.

6. The learned counsel for the petitioners has also submitted that considering the period of detention already undergone by the above-named petitioners, they may be allowed to go on with by imposing any conditions and they are ready to cooperate in investigation as well as in trial.

7. On the other hand, B. B. Gogoi, learned Additional Public Prosecutor, has produced the case diary of Tamulpur Police Station Case No. 81/2024 and has submitted that there is sufficient incriminating material against all the above-named petitioners in the case diary. However, he has also submitted that the investigation has fairly progressed but one of the co-accused is yet to be arrested. Hence, he has opposed the grant of bail to the above-named petitioners.

8. I have considered the submissions made by learned counsel for both the sides and have perused the materials on record including the case diary of Tamulpur Police Station Case No. 81/2024.

9. Though, from the materials available on record, it appears that there are some incriminating materials against the accused persons. However, considering the progress made in the investigation as well as period of detention already undergone by the accused persons, their further custodial detention may not be necessary for fair completion of the investigation of Tamulpur Police Station Case No. 81/2024.

10. In view of above, all the above-named accused persons are hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only), each with one surety (who is preferably a resident of State of Assam) of like amount to the satisfaction of the learned Chief Judicial Magistrate, Baksa, Mushalpur subject to the following conditions:

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

11. With above observation, this bail application is thereby disposed of.

JUDGE

Comparing Assistant