

GAHC010111602024



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

Case No. : Bail Appln./1622/2024

MIZANUR RAHMAN AND ANR.
S/O SHAHJAMAL SK.
R/O VILL- BORO CHEDAMARI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783135

2: MAMINUR ISLAM
S/O SHAHJAMAL SK.
R/O VILL- BORO CHEDAMARI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

17.07.2024

1. Heard Mr. A.Z. Ahmed, learned counsel for the petitioner. Also heard Ms.

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

2. This is an application under Section 439 Cr.P.C., 1973 for granting bail to the accused petitioners, namely, **Mizanur Rahman and Maminur Islam**, who have been arrested on 11.05.2024 South Salmara P.S. Case No.334/2023 under Section 147/342/325/326/307/379 of the IPC.

3. The allegation in the FIR is that the accused persons have assaulted the son of the informant.

4. Mr. A.Z. Ahmed, learned counsel for the petitioners submits that the accused persons are innocent persons and are no way connected with the alleged offence and that there are no materials to implicate the accused petitioners for the offence alleged. He further submits that the informant has lodged a false case against the accused petitioners and the police on suspicion has arrested the accused petitioners. He further submits that the actual fact of the case is that on 19.11.2023 at about 11.30 after attending nature's call, when the wife and daughter of the co-accused retired to their respective beds, then the son of the informant entered into the bedroom of the daughter / niece of the accused / petitioner and gagged her mouth with cloth and with the threat to kill her with knife committed rape upon her. The daughter/niece of the co-accused somehow freed herself and managed to raise alarm and after hearing her hue and cry, the co-accused entered her bedroom and caught the son of the informant red-handed. Thereupon the informant was called, and everything was explained to him, whereupon the informant admitted the fault of his son and assured not to repeat such act in future and took away his son in a physically fit and fine condition in presence of some village elderly people and some of them

are the member of the Village Defense Party (VDP). The informant in connection to the said incident on 20.11.2023 at 1.30 Am executed an agreement in the presence of some witnesses which transpire the actual fact of the case and the illegal act done by his son.

5. Ms. N. Das, learned Additional Public Prosecutor, Assam, on the other hand strongly opposes the prayer of bail. She submits that there are implicating materials available against the petitioners.

6. I have considered the submissions made at the bar and perused the materials on record.

7. It appears that the petitioners have been languishing in jail since last 67 days. It further appears that the petitioners were last interrogated on 24.11.2023 and since then they have not been interrogated. It further appears that investigation has substantially progressed. The statement of the witnesses have already been recorded under Section 161 Cr.P.C. It further appears that three co-accused persons have already been granted bail by this Court, vide order dated 02.02.2024.

8. Considering the length of detention and also the totality of the matter, this Court is of the opinion that further detention of the petitioners perhaps is not justified for the ongoing investigation.

9. Accordingly, it is provided that the accused petitioners, named above, shall be released on bail on furnishing bail bond of **Rs. 30,000/-** each for the aforementioned case with one surety each of like amount to the satisfaction of the **learned Chief Judicial Magistrate, South Salmara, Mankachar** under the following conditions:-

- i) That the accused petitioners shall cooperate with the Investigating Officer as and when required; and
- ii) That the accused 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 him from disclosing such facts to the Police Officer or the Court; and
- iii) That the accused petitioners shall refrain from committing any similar offences in future, of which they are suspected of commission.

10. With the above observations, the bail application is disposed of.

JUDGE

Comparing Assistant