

GAHC010112632024



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

Case No. : Bail Appln./1629/2024

ROFIKUL ISLAM @ ROQIKUL ISLAM AND ANR
S/O BAHAR ALI, VILL- NO. 1 PALAHARTARI, P.S.-NAGARBERA, DIST-
KAMRUP, ASSAM

2: AFCHAR ALI @ AFSAR ALI
S/O AJIT ALI @ RAHMAN
VILL- KALYANPUR (BAGMARA)
P.S.-NAGARBERA
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

25.06.2024

1. Heard learned counsel Mr. M. Islam for the petitioners, namely (i) Rofiquel Islam@ Rofiquel Islam, and (ii) Afchar Ali @ Afsar Ali.

2. This application have been filed by the petitioners under Section 439 of the Cr. PC with prayer for bail in connection with Nagarbera P. S. Case No. 61/2024 under Sections 341/342/326/307/387/34 of the IPC.
3. Heard Mr. D. P. Goswami, learned Additional public prosecutor, Assam for the respondent State.
4. The FIR unfolds that on 09.05.2024 at about 9.30 p. m., the accused Mohammad Abdul Haqim called Chiyamat Ali over phone. As Chiyamat is the accused Abdul Haqim's friend, he immediately left for his house. As soon as Chiyamat reached his house, the accused person named in the FIR forcefully took Chiyamat inside the house, locked the door and assaulted him brutally with a wooden piece, iron rod in an attempt to commit murder, and snatched away his mobile phone and switched off the Sim. As a result, Chiyamat's hands and legs were fractured and he sustained grievous injuries on different parts of his body and he was unable to return home. As the family members found his mobile phone switched off, they set out on a frantic search. They sought the help of the police to trace out Chiyamat. The family members including the informant Suleman Ali found Chiyamat in a critical condition and they took him to Nagarbera Primary Health Centre from whereon he was brought to the GMCH. Chiyamat was under treatment and fighting for his life.
5. The Learned Additional Public Prosecutor has submitted that there are incriminating materials in the Case Diary against the petitioners but specific allegations are leveled against Rofiqul Islam.
6. The statement of the victim is not yet recorded but the statements of the other witnesses clearly implicates both the petitioners.

7. The medico-legal report of the victim has also not been forwarded along with the Case Diary.
8. I have also scrutinized the Case Diary. Indeed there are incriminating materials basically against the petitioner No. 1. There are also incriminating materials against the petitioner No. 2.
9. It appears that further custodial detention of petitioner No. 2 may not be required.
10. I have considered the magnitude of the offence and the role attributed to the petitioner No. 1. At this juncture, there appears to be no justified ground to grant bail to the petitioner No. 1. Hence, the bail prayer of the petitioner No. 1, Rofiqul Islam stands rejected at this stage.
11. The petitioner No. 2 Afchar Ali is enlarged on bail of Rs.50,000/- (Rs. Fifty Thousand), with a suitable surety of like amount to the satisfaction of the Judicial Magistrate First-Class, Boko under the conditions that;

- (i) the petitioner shall refrain from such activities with which he is alleged,
- (ii) the petitioner shall not exercise threats to the witnesses and try to influence them, and
- (iii) the petitioner shall not leave the jurisdiction of the Court without prior permission.

On breach of any of the bail conditions, bail order shall stand cancelled.

12. Send back the Case Diary.

JUDGE

Comparing Assistant