

GAHC010122382024



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

Case No. : Bail Appln./1769/2024

AYJUL HOQUE MONDAL AND 2 ORS.
S/O MD. SATTAR MONDAL
R/O VILL- PAIKARKANDI
P.O. HAZIRHAT, P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM, PIN-783128

2: AKHIRUL ISLAM
S/O MD. AYNAL HOQUE
R/O VILL- PAIKARKANDI
P.O. HAZIRHAT
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-783128

3: SOYED ALI
S/OLATE NURAL HOQUE
R/O VILL- PAIKARKANDI
P.O. HAZIRHAT
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78312

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR M Z SHAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 11.07.2024

Heard Mr. M.Z. Shah, learned counsel for the petitioners and Mr. B.B. Gogoi, learned APP for the State.

2. The petitioners, who were arrested on 25.05.2024, are seeking regular bail under section 439 Cr.P.C. in connection with South Salmara P.S. Case No. 108/2024 under sections 147/ 148/ 149/ 353/ 333/ 336/ 325/ 326/ 307/ 365/ 379/ 411 IPC read with Section 13(i)/16 of Assam Cattle Preservation Act, 2021.

3. The learned APP has produced the case diary and has opposed the prayer for bail on the ground that there are sufficient materials in the case diary to implicate the petitioners of committing offence of bringing 20 numbers of stolen buffalo and on being intercepted by the police personnel, the concerned home guard was assaulted and he was recovered in an unconscious condition from the abandoned place. The learned APP has submitted that the police had recovered the unconscious home guard and thereafter, the accused persons were apprehended for attacking the concerned home guard who had suffered serious and grievous injuries in the head and other parts of the body.

4. It is further submitted that in respect of the same offence, two police cases are registered being Sukchar PS Case No. 37/2024 under sections 120B/ 47/ 365/ 325/ 379/ 506 IPC as well as South Salmara PS Case No. 268/2023 under sections 379/411 IPC. It is also submitted that several of the named accused persons are absconding.

5. We take note of the order dated 26.06.2024 passed by a Coordinate Bench of this Court in BA 1723/2024, by which one of the co-accused in connection with South Salmara PS Case No. 109/2024 was released on bail. We also take note of the contents of the said order wherein the Court had recorded that two FIRs have similar allegation, except the number of accused was reduced in the said subsequent FIR. We also take note of the order dated 19.05.2023 passed by a Coordinate Bench of this Court in Crl. Pet. No. 601/2022, wherein this Court had held that in the schedule appended to the Assam Cattle Preservation Act, 2021, the animal "Buffalo" is not included.

6. Therefore, although the case diary implicates the petitioners of assaulting the concerned home guard and other police personnel and leaving the said Home Guard unconscious in an abandoned place, however, the Court is of the considered opinion that further custodial interrogation of the petitioners may not be necessary. Hence, the Court is inclined to grant bail to the petitioners, namely, (1) Ayjul Hoque Mondal, (2) Akhirul Islam and (3) Soyed Ali in connection with the aforesaid case on furnishing bail bond of Rs.50,000/- each with one suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, South Salmara, Mankachar.

The bail is granted on the following conditions:

1. The petitioners shall make themselves available to the police or any other investigating agency or Court in the present case as and when required.
2. The 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 Court or to any police officer or tamper with the evidence. They shall not, in any

manner, try to overawe or influence or intimidate the prosecution witness.

3. The petitioners shall not obstruct the smooth progress of the investigation/trial.

4. The petitioners shall not misuse their liberty in any manner.

5. The petitioners shall appear before the I/O once in a month till their appearance is no longer required or till charge-sheet is filed, whichever is earlier.

7. This application stands disposed of.

8. Case diary is returned.

JUDGE

Comparing Assistant