

GAHC010131232024



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

Case No. : AB/1720/2024

MUKUL CHANDRA RAY AND ANR
S/O ATUL RAY, R/O VILL- KAYMARI PART-2, P.O.-KAYMARI, P.S.-
GOLAKGANJ, DIST- DHUBRI, ASSAM, PIN-783335

2: NIBASH ROY
S/O AROJIT ROY
R/O NEAR KAYMARI NEW MARKET
KAYMARI PART-2
P.O.-KAYMARI
P.S.-GOLAKGANJ
DIST- DHUBRI
ASSAM
PIN-78333

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. J KALITA, M BRAHMA, MR SOHAING

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 31-07-2024

Heard Mr. N.J. Gogoi, learned counsel for the petitioners. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor appearing for the State of

Assam.

2. This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Mr. Mukul Chandra Ray and 2. Nibash Roy, who are apprehending their arrest in connection with Golakganj P.S. Case No. 58/2024 under Section 120(B)/379/186/353/506 of the Indian Penal Code, 1860.

3. The gist of accusation in this case is that one Munna Sharma, Forester I of Chagolia Block Forest, Account Office had lodged an FIR on 20.03.2024, before the Officer-In-Charge of Chagolia Police Outpost, inter alia, alleging that on receipt of an information that some illegal transportation of sand and chip is taking place in Khathaltoli Ghat since long without valid documents. The informant along with the Forest staff went to Kaymari Part II area and found one Tata 407 truck and a tractor while sand being loaded in the said vehicles. When the informant sought for the documents, the driver of the said vehicle produced some challans and some discrepancies were found in the said challans and an altercation happened between the driver and the informant.

4. It is alleged in the FIR that at that time, the occupants of the vehicle tried to attack the informant and his colleague with lathis etc.

5. The learned counsel for the petitioners has submitted that the allegations made in the FIR are not true.

6. He has also submitted that on bare perusal of the FIR, it appears that the incident as alleged occurred on 08.03.2024, however, the FIR was lodged by the informant on 20.03.2024, i.e. about 12 days after the incident without any explanation for the delay in lodging of the FIR.

7. The learned counsel for the petitioners has submitted that both the petitioners are the driver of the vehicles which were seized in this case and they are innocent and they are ready to co-operate in the trial.

8. I have considered the submissions at the bar with circumspection. The statement of the petitioners has been recorded. The petitioners have not violated any bail conditions. I have considered the submission that the petitioners are willing to cooperate with the remaining part of the investigation and to abide by any bail conditions if imposed upon them. The petitioners are local residents and they are not a flight risks.

9. Considering all aspects and in view of my foregoing discussions, the interim order dated 28.06.2024 is hereby made absolute.

10. In terms of the above observations, this Anticipatory Bail applications stands disposed of.

11. Send back the Case Diary.

JUDGE

Comparing Assistant