

GAHC010139332024



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

Case No. : Bail Appln./2060/2024

KULEN NATH AND ANR
S/O LATE PUWARAM NATH, R/O VILL- BADIASISHA, P.S.-SIPAJHAR, DIST-
DARRANG, ASSAM

2: GANESH NATH @ JAYANTA NATH
S/O BIREN NATH
R/O VILL- BADIASISHA
P.S.-SIPAJHAR
DIST- DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.07.2024

1. Heard Mr. M. Hoque, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State.

2. This application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita 2023 has been filed by the petitioners, namely, (1) Kulen Nath, (2) Ganesh Nath @ Jayanta Nath who are detained behind the bars since 20.06.2024 (for the last 28 days) in connection with Sipajhar P. S. Case No.95/2024, under Section 120(B)/353/322/224 of the Indian Penal Code.

3. The gist of the accusation in this case is that on 19.06.2024, one Smt. Marami Deka had lodged an FIR before the Officer-in-Charge of Sipajhar Police Station, *inter-alia*, alleging that the petitioner No. 1 Kulen Nath, was kept in police custody on 19.06.2024 in connection with Sipajhar P. S. Case No.95/2024 under Section 120(B)/420/468/506 of the Indian Penal Code and at 7.00 p.m. the nephew of petitioner No.1, namely, Ganesh Nath, who is the petitioner No.2 in the instant case, came to the police station and in the chance of giving water to the petitioner No.1, pushed the informant and fled away in a Bolero vehicle.

4. Learned counsel for the petitioner has submitted that though, it is alleged that on 19.06.2024 the petitioners fled away from the custody of police, however, both the petitioners surrendered before the Court of learned Sub-Divisional Judicial Magistrate, Darrang, Mangadai on 20.06.2024 and thereafter, they were sent to judicial custody and since then, they are detained behind the bars.

5. Learned senior counsel for the petitioners has submitted that since the petitioners are detained behind the bars, and the petitioners themselves surrendered before the Court and they are behind the bars for the last 28 days, their custodial detention may not be necessary considering the nature of allegation made in the FIR.

6. On the other hand, learned Additional Public Prosecutor has opposed the grant of bail and submitted that perusal of the case diary may be necessary.

7. I have considered the submissions made by learned counsel for both rival parties and perused the materials available on record.

8. On perusal of the order dated 20.06.2024 passed by learned Sub-Divisional Judicial Magistrate, Darrang, Mangadai on 20.06.2024, the learned counsel for the petitioners has submitted that both the above-named petitioners had in fact surrendered before the Court on 20.06.2024 and the only allegation against them in the FIR is that they escaped from the custody of police on 18.06.2024.

9. It also appears that before the Sub-Divisional Judicial Magistrate, the petitioners took a plea that apprehending police torture, they escaped from the police custody and have surrendered before the Court on 20.06.2024, considering the fact that both the petitioners have themselves surrendered before the Court within a day of the alleged offence and they have already completed 28 days behind the bars, considering the nature of the allegations levelled in the FIR, this Court is of considered opinion that further custodial detention of the above named petitioners may not be necessary for fair completion of the investigation in Sipajhar P. S. Case No.95/2024 if they cooperate in the investigation.

10. In view of above, the above-named petitioners are hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only), each with one surety of like amount to the satisfaction of the learned SDJM, Darrang, Mangadai 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 of this bail application is hereby disposed of.

JUDGE

Comparing Assistant