

GAHC010156592024



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

Case No. : Bail Appln./2312/2024

MOFIZUL HOQUE AND ANR
S/O ANOWAR HUSSAIN, R/O VILL- NO. 2 KADAMGURI, P.S.-GOSSAIGAON,
DIST-KOKRAJHAR, ASSAM

2: ANOWAR HUSSAIN
S/O LATE MONSER ALI
R/O VILL- NO. 2 KADAMGURI
P.S.-GOSSAIGAON
DIST- KOKRAJHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ, ASIF E HUSSAIN, SAMIM
RAHMAN, MR S A BARBHUYAN, A W AMAN, MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

14.08.2024

1. Heard Mr. S. Nawaz, learned counsel for the petitioners namely, (i)

Mofizul Hoque, and (ii) Anowar Hussain.

2. The petitioners have filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for bail as they are behind bars since 06.06.2024 in connection with Gossaigaon Police Station Case No. 84/2024 under Sections 302/34 of the IPC.
3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State.
4. Learned Additional Public Prosecutor has raised serious objection stating that investigation may be adversely affected if the petitioners are admitted to bail.
5. There are incriminating materials in the Case Diary against the petitioners. I have also scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioners.
6. It is submitted on behalf of the petitioners that the scuffle was initiated due to a land dispute between both the parties and during the scuffle, the complainant's husband sustained fatal injury to which he had succumbed and passed away. It is submitted that this is not a case of unprovoked, cold-blooded murder but there was provocation from the complainant's family members which resulted in the unfortunate incident.
7. I have also considered the submission that statements of several witnesses have been recorded under Section 164 of the Cr.PC.
8. I have also considered the submission that investigation has progressed to a considerable extent and the petitioners are willing to cooperate with the remaining part of the investigation. The Case Diary

also reveals that investigation has progressed to a considerable extent.

9. Considering all aspects and in view of my foregoing discussions, petition is allowed. The petitioners shall be enlarged on bail of Rs.50,000/- each (Rupees Fifty Thousand) with a suitable surety of like amount to the satisfaction of the learned SDJM (M), Gossaigaon under the conditions that:

- (i) The petitioners shall refrain from such activities with which they are alleged,
- (ii) The petitioners shall appear before the Investigating Officer every fortnight till completion of the investigation, and
- (iii) The petitioners shall not leave the jurisdiction of the Court without prior permission.

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

Send back the Case Diary.

JUDGE

Comparing Assistant