

GAHC010157782024



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

Case No. : Bail Appln./2358/2024

ASAD ALI AND ANR
S/O LATE SUKUR ALI, R/O VILL- BOWALIMARI PART-II, P.S.-JOGIGHOPA,
DIST- BONGAIGAON, ASSAM

2: AMIR CHAN @ AMIR CHAND
S/O KAINSA SHEIKH
R/O VILL- BOWALIMARI PART-II
P.S.-JOGIGHOPA
DIST- BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A M KHAN, MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY, MR T T MONI

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

16.09.2024

Heard Mr. N, Uddin, learned counsel for the petitioners. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 439 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for grant of bail to the accused/petitioners, who have been languishing in jail hazot since 01.08.2024 in connection with Jogighopa P.S. Case No.97/2024 registered under Sections 143/147/353/307/34 of IPC, read with Section 25(1 AB) of the Arms Act, 1959, read with Section 3 of the Prevention of Damage to Police Property Act, 1984.

The Case Diary has been received and I have perused the same.

The learned counsel for the petitioners, Mr. Uddin, has submitted that the petitioners are innocent and have no involvement in the alleged offence. He submits that false and concocted allegations have been brought against them. It is contended by the petitioners that they do not have any vehicle, however, on the day of the incident, during a Naka checking, police personnel collected fines from individuals for traffic violations but did not provide receipts. This led to anger among some of the individuals, resulting in a quarrel between local persons and the police personals. Consequently, an FIR was lodged, and the names of the present petitioners were included along with other accused persons. The petitioners were arrested in connection with this case on 01.08.2024 and have been in custody since then. Given that the Investigating Officer (I.O.) has had sufficient time for custodial interrogation, further custodial

interrogation may not be necessary. Further, the petitioners are ready to co-operate with I.O. for further investigation of the case if they are enlarged on bail.

On the other hand, Mr. Das, learned Additional Public Prosecutor, submits that there is sufficient incriminating evidence against the accused/petitioners, as well as others. He contends that the petitioners obstructed the official duties of the police personnel who were engaged in Naka checking of vehicles. The petitioners, along with others, prevented people from approaching within 100 meters of the Naka checking area. Additionally, one of the co-accused allegedly snatched a pistol from a police personal. Therefore, they not only obstructed but also assaulted the police personnel on duty. Accordingly, Mr. Das raises objections to granting bail to the accused/petitioners at this stage.

After considering the submissions of learned counsel for both sides and on perusal of the case diary, it is evident that there are sufficient incriminating materials against the accused/petitioners, as well as the co-accused Atowar Rahman, who was specifically involved in this case and is alleged to have snatched a pistol from a police personal. Without delving into the merits of the case, and considering that the petitioners have been in custody since 01.08.2024, I am of the view that the Investigating Officer (I.O.) has had ample opportunity to interrogate the accused/petitioners keeping them in custody. Given the submissions from both sides and the length of detention already undergone by the accused/petitioners, i.e., 47 days, I find that further custodial interrogation does not seem necessary at this stage.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the Elaka Magistrate, the accused/petitioners, namely, **Asad Ali**

and **Amir Chan @ Amir Chand**, be enlarged on bail, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) that 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 them from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioners shall not leave the jurisdiction of the Elaka Magistrate, without prior permission.

In terms of above, this bail application stands disposed of.

JUDGE

Comparing Assistant