

GAHC010158532024



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

Case No. : Bail Appln./2315/2024

AZIM UDDIN AHMED ALIAS AJIM UDDIN AND 2 ORS
S/O SONA UDDIN @ SONAR UDDIN
VILL- 2 NO. BARPATTHAR
P.S. BOKO
DIST. KAMRUP, ASSAM

2: ABDUL BARIK
S/O LATE IRFAN ALI
VILL- FOREST KANKATA
P.S. RANGJULI
DIST. GOALPARA
ASSAM

3: JOHAR ALI ALIAS JAHAR ALI
S/O SULEMAN SEIKH
VILL- MALGAON KAMERI
P.S. KOKRAJHAR

DIST. KOKRAJHAR
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. R ALI, MR H A AHMED

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

12.09.2024

1. Heard Mr. R. Ali, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor appearing for the State of Assam.

2. This application under Section 483 of the BNSS, 2023 has been filed by the petitioners, namely, 1. Azim Uddin Ahmed @ Ajim Uddin, 2. Abdul Barik, and 3. Johar Ali @ Jahar Ali, who are detained behind the bars since 17.07.2024 (for last 57 days) in connection with Simla P.S. Case No. 50/2024 under Section 310(5)/310(6) of the BNS, 2023.

3. The gist of accusation against the petitioners is that on 16.07.2024, one Trilakya Das, SI of Police, had lodged an FIR before the Officer-In-Charge of Simla Police Station, *inter alia*, alleging that on receipt of an information through reliable sources that a group of dacoits are planning to commit dacoity in Bashbari area, police teams were formed to apprehend the dacoits and accordingly at around 9:10 PM, one silver colour Mahindra XUV vehicle bearing Registration No. AS01BB6045 was intercepted at Pathsala Chowk and the accused persons were apprehended therefrom.

4. The learned counsel for the petitioners has submitted that apart from seizure of two mobile phones, no other incriminating materials were seized from the petitioners. He also submits that the allegations made in the FIR against the petitioners are not true.

5. The learned counsel for the petitioners also submits that there is nothing on record from which it can be inferred that a preparation for committing dacoity was done by the present petitioners and there is also nothing to suggest that the petitioners assembled for the purpose of doing the same.

6. The learned counsel for the petitioners has submitted that the petitioners were hired by one contractor for doing some construction work in his side and there is nothing to suggest that they assemble for the purpose of committing dacoity.

7. On the other hand, the learned Additional Public Prosecutor has submitted that all the three petitioners have pending cases against them involving dacoity in different police stations and the only purpose of their assembling together was to commit dacoity and therefore, he opposes the grant of bail to the present petitioners.

8. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record. On perusal of the case diary, it appears that the petitioner, Azim Uddin Ahmed @ Ajim Uddin has been involved in a criminal case earlier, which is registered as Patacharkuchi P.S. Case No. 560/2020. Similarly, the petitioner, Abdul Barik is also involved in a earlier criminal case, i.e. Patacharkuchi P.S. Case No. 86/2020, and similarly, the petitioner, Johar Ali @ Jahar Ali is also involved in another criminal case, which is registered as Tezpur P.S. Case No. 538/2023. However, apart from the fact that the petitioners were found together on the day when they were arrested no other materials could be collected by the Investigating Officer till date, to

suggest that they were making any preparation for committing dacoity and that they assembled for the purpose of committing dacoity. Moreover, the petitioners are already detained behind the bars for last 57 days.

9. In view of the above, further custodial detention of the petitioners does not appear to be necessary for fair completion of the investigation of the Simla P.S. Case No. 50/2024.

10. In view of the above, the above-named petitioners are hereby allowed to go on bail of Rs. 30,000/- each with one surety of like amount, subject to the satisfaction of the learned Chief Judicial Magistrate, Baksa, Mushalpur with the following conditions:

- i.** the petitioner shall appear before the Investigating Officer every week for next four weeks or till the investigation is completed whichever is earlier; and
- ii.** That the petitioner 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 before the Investigating Officer.

11. With the above observation, this bail application is accordingly disposed of.

12. Send back the case diary.

JUDGE

Comparing Assistant