

GAHC010171032024



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

Case No. : Bail Appln./2538/2024

MD UMAR ALI @ OMAR ALI AND ANR
S/O HASSAN ALI, R/O VILL- DHARAMPUR, P.O. AND P.S.-LALUK, DIST-
LAKHIMPUR, ASSAM, PIN-784160

2: JALAL ALI
S/O LATE KASEM ALI
R/O VILL- BEHARABASTI
P.O.-KAKOI RAJGARH
P.S.-BOGINADI
DIST- LAKHIMPUR
ASSAM
PIN-78705

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. S S SAIKIA, MR. M K SARMA, MR G DAS

Advocate for the Respondent : PP, ASSAM,

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

ORDER

Date : 10.09.2024

- 1.** Heard Mr. M. K. Sharma, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 483 of the BNSS, 2023 has been filed by the petitioners, namely, (1) Md. Umar Ali @ Omar Ali, and (2) Jalal Ali, who has been detained behind the bars since 04.04.2024 in connection with Sessions Case No. 104^(NL)/2019 which is pending before the Court of learned Additional Sessions Judge (FTC) Lakhimpur, North Lakhimpur.
- 3.** Learned counsel for the petitioners has submitted that the petitioners are facing trial for charges under Section 395 of the Indian Penal Code.
- 4.** It is submitted by learned counsel for the petitioners that the petitioners were earlier on bail and were regularly appearing before the Trial Court.
- 5.** However, during COVID-19 period, they defaulted and the Trial Court issued non-bailable warrant against them on 01.10.2022 and ultimately, they were arrested on 04.04.2024.
- 6.** Learned counsel for the petitioners has also submitted that there are total five numbers of prosecution witnesses listed in the charge sheet and out of which only three have been examined and none of the witnesses who have been examined have implicated the present petitioners.
- 7.** Learned counsel for the petitioners has also submitted that the petitioners are the permanent resident of Lakhimpur district and they shall regularly appear before the Trial Court as and when required and shall abide by

any condition imposed by this Court.

8. On the other hand, learned Additional Public Prosecutor has fairly submitted that as the trial is pending and three more witnesses have to be examined, the custodial detention of the petitioners may not be necessary if they cooperate in the investigation and he prays for imposing strict conditions if they are allowed to go on bail.

9. Considering the submissions made by learned counsel for the petitioners as well as considering the facts and circumstances of this case, this Court is of considered opinion that if the petitioner cooperate in the trial, their custodial detention may not be necessary for fair completion of the trial in Sessions Case No. 104^(NL)/2019.

10. In view of above both the 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 Additional Sessions Judge (FTC) Lakhimpur, North Lakhimpur subject to the following conditions:

i. The petitioners shall appear before each and every date fixed by the Trial Court and shall cooperate in the trial in Sessions Case No. 104^(NL)/2019.

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 of the case before the Investigating Officer.

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

JUDGE

Comparing Assistant