

GAHC010171712024



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

Case No. : Bail Appln./2529/2024

YEAJUL CHOUDHURY AND ANR
S/O LT. AMJED CHOUDHURY
R/O VILL- BARPALAHA ISLAMPUR
P.S.-BAIHATA CHARIALI
DIST- KAMRUP
ASSAM

2: EBADUL CHOUDHURY
S/O AIJUL CHOUDHURY @ AJIJUL CHOUDHURY
R/O VILL- BARPALAHA ISLAMPUR
P.S.-BAIHATA CHARIALI
DIST- KAMRUP
ASSAM
VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. A T SARKAR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

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

ORDER

Date : 09.09.2024

- 1)** Heard Mr. A. T. Sarkar, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State of Assam.
- 2)** This application under Section 483 of the BNSS, 2023 has been filed by the petitioners, namely, Yeajul Choudhury and Ebadul Choudhury, who are detained behind the bars since 15.07.2024 (for last 56 days) in connection with Baihata Chariali Police Station Case No.184/2024 under Sections 189(2)/126(2)/109/118(2) of BNS, 2023.
- 3)** The gist of accusation in this case is that on 14.07.2024, one Jakir Ali had lodged an FIR before the Officer In-Charge of Baihata Chariali Police Station, *inter-alia*, alleging that the accused persons named in the FIR, including the present petitioners, had assaulted the father of the informant and inflicted serious injury on his person. Later on the accused persons named in the FIR also assaulted the paternal uncle of the informant Monser Ali. It is also stated in the FIR that the father as well as the paternal uncle of the informant were undergoing treatment in Oval Multi Specialty Hospital situated in Baihata Chariali and his father is now undergoing treatment in Swagat Hospital. The learned counsel for the petitioners has submitted that the allegations levelled in the FIR against the present petitioners are not true.
- 4)** It is also submitted by the learned counsel for the petitioners that the paternal uncle of petitioner No.1, namely, Aminul Choudhury was driven out of his house by his wife Amina Choudhury and later on the relatives of Amina

Choudhury trespassed into the house of the petitioners and assaulted the petitioners causing injury to the family members of the petitioners, and in that regard, one FIR has been also lodged by the mother of the petitioner, namely, Jayeda Begum, which was registered as Baihata Chariali Police Station Case No.184/2024.

5) The learned counsel for the petitioners has submitted that the petitioners are already detained behind the bars since last 56 days and considering the period of detention and the petitioners may be allowed to go on bail.

6) On the other hand, learned Additional Public Prosecutor has produced the Case Diary of Baihata Chariali Police Station Case No.184/2024 including the injury report of the victim, namely, Islam Ali. The learned Additional Public Prosecutor has opposed the grant of bail to the petitioners on the ground that there are sufficient incriminating materials against the petitioners in the Case Diary.

7) Moreover, he also submits that the injury sustained by the victim is grievous in nature and, therefore, he opposes the grant of bail.

8) I have considered the submissions made by the learned counsel for both the sides and perused the materials on record, it appears from the Case Diary that there are materials on record to show that it was one Munna Choudhury, who had first assaulted the father of the informant and later on after he fell down on ground, the other accused had joined in the assault. Though there are incriminating materials against both the petitioners in the Case Diary however, considering the fact that they are detained behind the bars for last 56 days, which is a sufficient period of time, as well as considering the progress of investigation, their further custodial detention does not appear to be

necessary for fair completion of the investigation of Baihata Chariali Police Station Case No.184/2024, if they co-operate in the investigation.

9) In view of the above, both the above named petitioners are 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 Sub-Divisional Judicial Magistrate, Rangia, subject to the conditions that:-

- (i) the petitioners shall co-operate in the investigation.
- (ii) the petitioners shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

10) This bail application is accordingly disposed of.

JUDGE

Comparing Assistant