

GAHC010174512024



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

Case No. : Bail Appln./2588/2024

SOHIDUR SK AND ANR
S/O LATE KHALIL SK, R/O VILL- BASHANI CHAR PART-I, P.S.-DHUBRI,
DIST- DHUBRI, ASSAM

2: RUP CHAN ALI
S/O MD SUKUR ALI
R/O VILL- BASHANI CHAR PART-I
P.S.-DHUBRI
DIST- DHUBRI
ASSAM
VERSUS
THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR F HAQUE, MR A ISLAM, MR. S K M ALOMGIR

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 12.09.2024

- 1)** Heard Mr. F. Haque, learned counsel for the petitioners. Also heard Mr. R. J. Baruah, 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, Sohidor Sk and Rup Chan Ali, who have been detained

behind the bars since 24.05.2024 (for last 28 days) in connection with Gauripur P.S. Case No.139/2024 under Sections 419/395/120(B)/399/412 of the Indian Penal Code.

3) The gist of accusation in this case is that on 24.05.2024 one Rafique Ali has lodged an FIR on that day at about 12.50 AM, 6 unknown persons carrying arms and wearing police uniforms (one of them in civil dress) came to the residence of the first informant and identified themselves as police and threatened the first informant and thereafter they looted golden ornaments valued about 5 lacs as well as cash of Rs.10,000/- and some other articles. On the basis of the said FIR the Gauripur P.S. Case No.139/2024 was registered.

4) The learned counsel for the petitioners has submitted that the petitioners are not involved in the offence alleged in the FIR. He also submits that in the meanwhile, eight of the co-accused were arrested in connection with this case and they are already released on bail. He submits that the petitioners are also ready to co-operate in the investigation.

5) On the other hand, learned Additional Public Prosecutor has produced the Case Diary of Gauripur P.S. Case No.139/2024 and has vehemently opposed the grant of bail to the petitioners on the ground that there are incriminating materials against both the petitioners and some of the co-accused persons are yet to be arrested.

6) I have considered the submissions made by the learned counsel for both the sides and have perused the Case Diary. It appears that on earlier occasion, the petitioners had approached this Court seeking anticipatory bail. However, the prayer for grant of anticipatory bail on that instance, to the petitioners was rejected by order dated 09.08.2024 in AB/1776/2024.

7) However, now the petitioners have been detained behind the bars for

last 28 days and investigation has also fairly progressed as eight of the co-accused persons are already released on bail, this Court is of the considered opinion that further detention of the above named petitioners would not held the Investigating Officer to detained the other absconding accused persons. Otherwise, it appears that their custodial detention may not be necessary for fair completion of the investigation of Gauripur P.S. Case No.139/2024, if they co-operate with the Investigating Officer in the Investigation.

8) In view of above, both the above named accused 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 Chief Judicial Magistrate, Dhubri, 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.

9) This bail application is accordingly disposed of.

10) Send back the Case Diary.

JUDGE

Comparing Assistant