

GAHC010174902024



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

Case No. : Bail Appln./2590/2024

ABUL HUSSAIN AND 5 ORS.
S/O SISIR ALI,
VILL- KALBARI,P.S. SORBHOG
DIST. BARPETA, ASSAM

2: SAFIUR RAHMAN @ KHASRA
S/O LATE AFAZ UDDIN
VILL- KALBARI
P.S. SORBHOG

DIST. BARPETA
ASSAM

3: ABU SIDDIK SEKH
S/O ABDUL AZID ALI
VILL- KALBARI
P.S. SORBHOG

DIST. BARPETA
ASSAM

4: ABU BAKKAR SHEIKH
S/O ABDUL AZID
VILL- KALBARI
P.S. SORBHOG

DIST. BARPETA
ASSAM

5: ABDAR ALI
S/O SISIR ALI
VILL- KALBARI
P.S. SORBHOG

DIST. BARPETA
ASSAM

6: ATAR ALI
S/O SISIR ALI
VILL- KALBARI
P.S. SORBHOG
DIST. BARPETA
ASSAM

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

Date : 09.09.2024

- 1.** Heard Mr. R. Ali, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 483 of the BNSS, 2023 Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, *1. Abul Hussain, 2. Safiur Rahman @ Khasra, 3. Abu Siddik Sekh, 4. Abu Bakkar Sheikh, 5. Abdar Ali and 6. Atar Ali*, who are detained behind the bars since 23.07.2024 in connection with PRC Case No. 1420/2023, arising out of Sorbhog P.S. Case No. 31/2023 under Sections 120B/ 147/ 341/ 326/ 302/ 435 of the Indian Penal Code pending before the Court of learned Additional Chief Judicial Magistrate, Barpeta.

3. Learned counsel for the petitioners has submitted that all the above named petitioners earlier had earlier approached this Court by filing an anticipatory bail application which was registered as AB No. 3674/2023 and in the said case by order dated 29.11.2023 the above named petitioners were directed to appear before the Committal Court on 16.12.2023 and on doing so they were allowed to go on bail of Rs.30,000/- each with certain conditions.

4. Accordingly, the petitioners appeared before the Court of learned Additional Chief Judicial Magistrate on 16.12.2023 and in pursuant to the directions of this Court, learned Additional Chief Judicial Magistrate allowed them to go on bail of Rs.30,000/- each. However, later on, an application was filed by the informant for cancellation of anticipatory bail application granted to the petitioners.

5. By order dated 29.05.2024, though the prayer for cancellation was rejected, however, the petitioners were directed to deposit a token cost of Rs.5,000/- each before the Secretary of District Legal Services Authority, Barpeta on the next date fixed before the learned Committal Court. It was also directed that if the petitioners fail to deposit the cost as directed by this Court, their bail shall be treated as cancelled.

6. The learned counsel for the petitioners has submitted that on the next date fixed i.e., on 25.06.2024, the Presiding Officer of the Court was on leave and due to miscommunication the petitioners could not deposit the cost of the said date. It is further submitted by the learned counsel for the petitioners that the next date before the learned Committal Court was fixed on 23rd July, 2024 and on that day, the learned Committal Court remanded the petitioners in judicial custody for violation of directions to pay the cost as directed by this

Court.

7. The learned counsel for the petitioners has submitted that the petitioners have on the same date i.e., on 23rd July, 2024 deposited the cost as directed by this Court before the Secretary, District Legal Services Authority, Barpeta and also obtained a money receipt. However, when they filed the bail application before the learned Committal Court by order 07.08.2024, their bail applications were rejected by the learned Sessions Judge, Barpeta on the ground that the petitioners had failed to comply with the directions of this Court on the date fixed for such compliance i.e., 25.06.2024.

8. The learned counsel for the petitioners has submitted that the delay in depositing the cost before the District Legal Services Authority, Barpeta was due to communication gap and they have now complied with the directions of this Court by depositing the cost.

9. The learned Additional Public Prosecutor has opposed the prayer for bail on the ground that the petitioners has failed to comply with the directions of this Court in letter and spirit.

10. I have considered the submissions made by the learned counsel for both the sides and have gone through the materials available before this Court.

11. It appears that initially the petitioners were allowed to go on anticipatory bail by this Court by holding that their custodial interrogation may not be necessary and the petitioners were ready to face the trial.

12. The learned Committal Court remanded the petitioners to custody only because of the fact that the petitioners had failed complied with the directions

of this Court within the time given to them for such compliance. Though, they could not stick to the time given to them by this Court, however, the petitioners have ultimately deposited the cost imposed on them to the District Legal Services Authority as directed by this Court on 23.07.2024.

13. The learned counsel for the petitioners also submitted that the custodial detention of the petitioners may not be necessary for completion of the fair trial of the case pending against them and they are ready to co-operate in the trial.

14. Considering the fact that the petitioners have ultimately complied with the directions of this Court by depositing the cost to the District Legal Services Authority, Barpeta as well as considering the fact that the if the petitioners co-operate in the trial, their custodial detention may not be necessary.

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

- i. The petitioners shall co-operate in the trial.
- ii. The petitioners shall not directly or indirectly make any inducement, threat or promise to any person or persons who may be acquainted with the facts of this case so as to dissuade such persons from disclosing such facts before the Court.

16. With the above observation, this bail application is hereby disposed of.

JUDGE

Comparing Assistant