

GAHC010175592024



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

Case No. : AB/2264/2024

MOYNAL HOQUE AND ANR
S/O LT. AJGOR ALI MIRDDA @ AJGOR MIRDDA, R/O VILL- SIMULBARI,
P.O.-AOLATOLI, P.S.-LAKHIPUR, DIST- GOALPARA, ASSAM, PIN-783129

2: SULTAN ALI
S/O MOYNAL HOQUE
R/O VILL- SIMULBARI
P.O.-AOLATOLI
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-78312

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M R KHANDAKAR, MR. A ROHMAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 27.11. 2024

1. Heard Mr. MR Khandakar, learned counsel for the petitioners, (1) **Moynal Hoque** and (2) Sultan Ali, who have filed this application under Section 482

BNSS, 2023 with a prayer for pre-arrest bail as they are apprehending arrest in connection with Lakhipur P.S. Case No. 90/2024 (Corresponding to G.R. Case No. 296/2024) under Sections 120/ 302/34 IPC.

2. Heard Mr. K. Baisya, learned Addl. Public Prosecutor, Assam, appearing for the State respondent, who has raised objection against the prayer of pre-arrest bail as they are incriminating materials against the petitioners.

3. The FIR unfolds that on 24.03.2024 at about 4.00 p.m. one Abu Bakkar took the informant's father, Kobad Ali alongwith him and since then the informant's father was missing and finally the dead body of the informant's father was recovered.

4. It is submitted on behalf of the petitioners that petitioners are on interim bail granted by a co-ordinate Bench of this Court vide order dated 17.09.2024. It is also submitted that the petitioners were at that time working at Meghalaya as mason and they were not present at that time of occurrence and their names have been falsely mentioned in the FIR.

5. The case diary is received and perused.

6. I have scrutinized the case diary.

7. I have considered the submission that the petitioners are willing to co-operate with the remaining part of investigation and to abide by any stringent conditions of bail imposed on them.

8. The petitioners are a local residents and not flight risks.

9. I have considered the submissions of the learned counsel for the parties at the bar with circumspection.

10. The merits of the case are not brought to the fore as the case is still at the

stage of investigation.

11. The petitioners have appeared before the I.O. and have co-operated with the investigation. The petitioners have not violated any conditions of the interim bail granted to them.

12. Considering the entire aspect of the matter and in view of my foregoing discussions, the interim order dated 17.09.2024 is hereby made absolute subject to the conditions that:-

- (i) the petitioners shall appear before the I.O. within 1 (one) week from today;
- (ii) the petitioners shall refrain from such activities with which they are alleged;
- (iii) the petitioners shall appear before the I.O. on every fortnight till completion of investigation,
- (iv) the petitioners shall not hamper the investigation or tamper with the evidence of the case, and
- (v) the petitioners shall not leave the territorial jurisdiction of the Elaka Magistrate, without prior written permission from him/ her.

13. On breach of any of the bail conditions, bail granted to the petitioners shall automatically stand cancelled.

14. Bail application is disposed of.

15. Send back the case diary.

JUDGE

Comparing Assistant