

GAHC010193672024



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

Case No. : Crl.Pet./1153/2024

ABDUL JABBAR ALI AND ANR
S/O HABIBUR RAHMAN
R/O GHILAJARI
P.S. HOWLY
DIST. BARPETA, ASSAM

2: RAFIKUL ISALAM @ RUMI
S/O LATE BASED DEWAN
R/O JONIA
P.S. BARPETA
DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:PRAFULLA BARMAN
S/O GOROIMARI
P.S. MANIKPUR
DIST. BONGAIGAON
ASSA

Advocate for the Petitioner : MR S M ABDULLAH P, MR. S RAHMAN, MD IMRAN, MS F
HUSSAIN

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

20.09.2024

Heard Mr. SM Abdullah P, the learned counsel appearing for the petitioners. I have also heard Ms. S.H. Borah, the learned Addl. Public Prosecutor, Assam.

2. This is an application under Section 528 of the BNSS, 2023 praying for setting aside and quashing the orders dated 31.05.2024 and 21.08.2024 passed by the learned Sub-Divisional Judicial Magistrate (S), Barpeta directing issue of summons in respect of PRC No.82/2022 arising out of Howly P.S. Case No.71/2015.

3. The petitioners have been shown as absconders in a *charge sheet* filed under Sections 397/364(A)/420 of the Indian Penal Code.

4. Now, the petitioners apprehend that since the offences are triable by a court of Sessions, whenever they appear before the court of learned Sub-Divisional Judicial Magistrate (S), Barpeta, they shall be remanded to custody because the court of Sub-Divisional Judicial Magistrate (S), does not have the jurisdiction to entertain bail application of the present petitioners.

5. Both the petitioners are interested in facing the trial.

6. Therefore, this Court is of the opinion that the petitioners deserve to be given a chance to face the trial.

7. For the aforesaid reason, it is hereby directed that on their appearance on 30.09.2024 before the court of Sub-Divisional Judicial Magistrate (S), Barpeta in connection with PRC No.82/2022 arising out of Howly P.S. Case No.71/2015, the petitioners Abdul Jabbar Ali and Rafikul Islam @ Rumi shall be released on bail of

₹20,000/- each with sureties of like amount to the satisfaction of learned Sub-Divisional Judicial Magistrate (S), Barpeta.

With the aforesaid direction, the criminal petition is disposed of.

JUDGE

Comparing Assistant