

GAHC010211812024



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

Case No. : Bail Appln./3120/2024

ABDUR RAHIM AND 2 ORS
S/O LATE HABIBAR RAHMAN
VILL- FULKIPARA
P.S.HOWLY
DIST. BARPETA, ASSAM

2: HUSSAIN ALI
S/O LATE NABIBAR RAHMAN
VILL- FULKIPARA
P.S HOWLY
DIST. BARPETA
ASSAM

3: RASHIDUL HOQUE
S/O SAFIR UDDIN
VILL- SONAPUR RESERVE GAON
P.S. BIHPURIA
DIST. NORTH LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MAHIBUR RAHMAN, MS ASFIA AHMED, MR AZIZUR RAHMAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22-10-2024

Heard Mr. M. Rahman, learned counsel for the petitioners and Mr. B. Sharma, learned Additional Public Prosecutor, Assam for the State.

2) By this application filed under Section 483 of the BNSS, 2023, the petitioners, namely, **(1) Abdur Rahim**, son of late Habibar Rahman, **(2) Hussain Ali**, son of late Nabibar Rahman, and **(3) Rashidul Hoque**, son of Safir Uddin are seeking bail in connection with **Howly P.S. Case No. 124/2024** corresponding to G.R. No. 407/2024 registered under Sections 61(2)/318(4)/319(2) of BNS, 2023, wherein they were arrested on 04.09.2024 and since then are in custody.

3) As per the FIR of the case dated 03.09.2024, lodged by the Sub Inspector of Police, Howly Police Station that on receipt of an information from reliable source that the petitioners who are goldsmith possessing huge amount of fake gold in the house of the petitioner No.1 Abdur Rahim and are selling those gold to people as real gold and collected huge amount of money illegally from them Howly PS GD Entry No. 08 dated 03.09.2024 was made and on being authorized, the concerned complainant/ informant proceeded to Phulkipara village and on the night of 03.09.2024 around 01:00 am on reaching the house of the petitioner No.1, in presence of two witnesses, the petitioners were found inside the house of the petitioner No.1.

4) During search of the house of the petitioner No.1 by following the formalities, one golden colour metal piece suspected to be fake, wrapped in a fancy red colour cloth kept in a plastic bag inside the room of the petitioner

No.1, where all the three petitioners were sleeping, was recovered. During such search, two numbers of VIVO mobile phones and one number of Real Me mobile phone and ten numbers of small pieces of golden colour metal were also recovered from the possession of the petitioners. Accordingly, all the three petitioners were taken into custody on 04.09.2024, who are in custody since then.

5) By order dated 08.10.2024, the relevant case diary was called for.

6) On being enquired, Mr. Sharma, learned Addl. PP, Assam submitted that the office of the Public Prosecutor is yet to receive the relevant case diary of said Howly P.S. Case No. 124/2024.

7) From the accused forwarding dated 04.09.2024 (Annexure B to this petition) it is seen that the concerned Investigating Officer asked only for 14 days judicial custody of the petitioners.

8) Considering the period of detention of the petitioners in custody since 04.09.2024 the Court is of the view that further custodial detention of the petitioners are not warranted to investigate said Howly P.S. Case No. 124/2024 and as such, this bail application of the petitioners is accepted.

10) Accordingly, the petitioners, namely, **(1) Abdur Rahim, (2) Hussain Ali** and **(3) Rashidul Hoque**, shall be released on bail in said **Howly P.S. Case No. 124/2024** on furnishing a bail bond of Rs. 50,000/- each with two local sureties each of the like amount, to the satisfaction of the learned Chief Judicial Magistrate, Barpeta on conditions that the petitioners **(i)** shall appear before the Investigating Officer of said **Howly P.S. Case No. 124/2024** as and when they are required for necessary investigation of said Howly P.S. Case; **(ii)** shall not leave the territorial jurisdiction of the Howly Police Station, without

obtaining prior written permission from the concerned Investigating Officer of the case; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case; **(iv)** shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer and **(v)** shall not involve themselves in any criminal activities/offences.

11) Any violation of the aforesaid terms and conditions by the petitioners, named above, the bail granted to them in the aforementioned **Howly P.S. Case No. 124/2024** shall stand automatically vacated.

12) Bail application is accordingly stands allowed.

13) Return the case diary.

JUDGE

Comparing Assistant