

GAHC010213262024



2024:GAU-AS:13083

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

Case No. : Bail Appln./3135/2024

JHARNA SINHA AND ANR
W/O LATE AJIT SINHA
R/O KHANAPARA, RAJIB GANDHI KOINADHARA, BY LANE-15,
P.S. BASISTHA
DIST. KAMRUP (M), ASSAM

2: NEHA SINHA
D/O LATE AJIT SINHA
R/O KHANAPARA
RAJIB GANDHI KOINADHARA
BY LANE-15

P.S. BASISTHA
DIST. KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A AHMED, MR A AHMED,U U KHAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

20.12.2024

1. Heard Mr. M. Khan, learned counsel for the petitioners namely, (i) Jharna Sinha, and (ii) Neha Sinha, who have filed this application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for bail as he is behind bars since 16.10.2023, in connection with Sessions Case No. 51/2024 arising out of Basistha Police Station Case No. 621/2023 under Sections 120(B)/302 of the IPC read with Section 25(1)/(a)/27(1)/(a) of the Arms Act.
2. Heard learned Additional Public Prosecutor, Mr. B. Sharma, Assam for the respondent State.
3. It is submitted on behalf of the petitioners that they are not the prime-accused in this case. The petitioner no.1 is the mother of the prime accused, whereas the petitioner no.2 is the sister. They are also not involved in any offence under the Arms Act. It is also submitted that the conduct of the petitioner no.2 can also be taken into consideration as the petitioner no.2 was granted interim bail to perform the last rites of her father who died in judicial custody and thereafter, the petitioner no.2 surrendered before the learned Trial Court.
4. It is submitted that this petition is filed subsequently on change of circumstances as trial has been procrastinating due to non-examination of witnesses. 60 witnesses were enlisted in the charge-sheet and till now not a single witness has been examined so far. Trial is progressing with a leaden feet infringing the fundamental right of the petitioners. It is further submitted that the petitioner no. 1 is an elderly woman whose age is 51 years. It is submitted that both the petitioners will co-operate with the trial.
5. Learned Additional Public Prosecutor has raised serious objection stating

that there are incriminating materials that the petitioners were involved in hatching up a conspiracy with the prime accused who killed the deceased, Anjan Nath.

6. I have considered the submissions at the Bar with circumspection. It appears that trial is indeed dragging on with a leaden feet. Not a single witness has been examined. I have considered the age of the petitioner no.1. The petitioner no. 2 is a woman aged 27 years. Both the petitioners are willing to abide by any stringent bail conditions if imposed upon them. It appears that custodial detention may not be required.

7. In view of my foregoing discussions, petition is allowed. Both the petitioners shall be enlarged on bail of Rs. Rs. 50,000/- (Rupees Fifty thousand) each with a suitable surety of like amount to the satisfaction of the learned Trial Court under the conditions that:

- (i) The petitioners shall cooperate with the trial,
- (ii) The petitioners shall not leave the jurisdiction of the Court without prior permission till completion of trial, and
- (iii) The petitioners shall not exercise threats to the witnesses or try to influence the witnesses.

8. On breach of any of the bail conditions, the Jurisdictional Court is at liberty to immediately cancel the bail granted to the petitioner.

9. In terms of the above observation, bail application stands disposed of.

JUDGE

Comparing Assistant