

GAHC010220522024



2024:GAU-AS:11256

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

Case No. : Bail Appln./3226/2024

MD AKHTAR ALI @ MD AKHTAR AND ANR
S/O MD. ASLAM
VILL- ANGUS MASJID MAHALLAH
P.S. BHADESWAR
DIST. HOOGLY, WEST BENGAL.

2: CHABANA KHATUN@ SABANA KHATOON
W/O MD. AKHTAR ALI
VILL- ANGUS MASJID MAHALLAH
P.S. BHADESWAR
DIST. HOOGLY
WEST BENGAL

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M KHAN, MR. R THADANI, MR. A HUSSAIN

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

19.11.2024

Heard Mr. A M Khan, learned counsel for the petitioners and Ms. S H Bora, learned Additional Public Prosecutor, Assam, for the State.

2) By this application filed under Section 483 BNSS, 2023, the petitioners, namely, **(i) Md. Akhtar Ali @Md. Akhtar**, son of Md. Aslam, and **(ii) Chabana Khatun @Sabana Khatoon**, wife of Md. Akhtar Ali, both resident of Angus Masjid Mahallah, Police Station-Bhadeswar, District-Hoogly, West Bengal, are praying for their bail in **Sivasagar Police Station Case No. 136/2024** (earlier registered as Guwahati GRPS Case No.203/2024), corresponding to G.R. No. 5618/2024, registered under Sections 96/3(5) BNS, 2023 read with Section 80/81 of the Juvenile Justice (Care and Protection of Children) Act, 2015, wherein, they were arrested on 22.09.2024 and are in custody since then.

3) As per the FIR of the case dated 22.09.2024, the informant, a case worker of Railway Child Helpline, Guwahati lodged an FIR alleging that on 21.09.2024, he received a phone call from National Helpline No.1098 and came to know that a male child, aged about 8 years, was suspiciously being taken by a couple, i.e., the petitioners herein, by boarding the Awadh Assam Express, with an intention to adopt the child illegally.

4) With the help of the Guwahati Railway Police Force (GRPS) and Guwahati Railway Child Helpline, Guwahati the matter was intervened and the couple was interrogated.

5) On interrogation, it was revealed that the petitioners were going to adopt the child illegally through a contract and a lawyer from Sivasagar helped them in that regard.

6) Accordingly, Sivasagar P.S. Case No. 136/2024 (earlier registered as Guwahati GRPS Case No.203/2024), corresponding to G.R. No. 5618/2024, under Sections 96/3(5) BNS, 2023 read with Section 80/81 of the Juvenile Justice (Care and Protection of Children) Act, 2015 was registered against the petitioners.

- 7) Both the petitioners were arrested and their statements were recorded.
- 8) Perused the case diary placed before the Court today by Ms. S H Bora, learned Additional Public Prosecutor, Assam.
- 9) It is seen from the case diary that as on 26.09.2024, the rescued child is kept in the Government Child Home for Boys at Fatasil Ambari, Guwahati.
- 10) Considering the materials in the case diary and the period of detention in custody since 22.09.2024, the Court is of the view that further custodial detention of the petitioners, namely, **(i) Md. Akhtar Ali @Md. Akhtar**, and **(ii) Chabana Khatun @Sabana Khatoon**, in said Sivasagar P.S. Case No. 136/2024 is not warranted for investigation of the said case. As such, this bail application of the petitioners in said Sivasagar P.S. Case No. 136/2024 is accepted.
- 11) Accordingly, the petitioners, namely, **(i) Md. Akhtar Ali @Md. Akhtar**, and **(ii) Chabana Khatun @Sabana Khatoon**, be released on bail in said Sivasagar P.S. Case No. 136/2024 on furnishing bail bond of Rs. 50,000/- each with 2(two) local sureties each of the like amount, to the satisfaction of the learned Chief Judicial Magistrate, Sivasagar, subject to the conditions that the petitioners, named above —
- i) shall appear before the concerned Investigating Officer of said Sivasagar P.S. Case No. 136/2024, as and when they are required for necessary investigation of the case;
 - ii) shall not leave the territorial jurisdiction of said Sivasagar 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 in the future.
- 12) Any violation of the aforesaid terms and conditions by the petitioners, namely, **(i) Md. Akhtar Ali @Md. Akhtar**, and **(ii) Chabana Khatun @Sabana Khatoon**, the bail granted

to them in said Sivasagar P.S. Case No. 136/2024 shall stand automatically vacated.

13) This bail application accordingly stands allowed.

14) Return the Case Diary herewith.

JUDGE

Comparing Assistant