

GAHC010225982024



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

Case No. : Bail Appln./3326/2024

NUMAL PAYENG AND 5 ORS
S/O LATE MALONG PAYENG, R/O VILL- CHALICHUK, GHUNASUTI, P.S.-
NORTH LAKHIMPUR, DIST- LAKHIMPUR, ASSAM

2: KOPET PAYENG @ MANUJ PAYENG
S/O LATE SASHI PAYENG @ SHASHI PAYENG
R/O VILL- CHALICHUK
GHUNASUTI
P.S.- NORTH LAKHIMPUR
DIST- LAKHIMPUR
ASSAM

3: ANIRAM PAYENG
S/O GIDAR PAYENG
R/O VILL- CHALICHUK
GHUNASUTI
P.S.- NORTH LAKHIMPUR
DIST- LAKHIMPUR
ASSAM

4: MIYA PAYENG
S/O RAJEN PAYENG
R/O VILL- CHALICHUK
GHUNASUTI
P.S.- NORTH LAKHIMPUR
DIST- LAKHIMPUR
ASSAM

5: DEBA PAYENG
S/O LATE RUPESWAR PAYENG @ LOPESHWAR PAYENG
R/O VILL- CHALICHUK
GHUNASUTI
P.S.- NORTH LAKHIMPUR
DIST- LAKHIMPUR

ASSAM

6: BIKASH PAYENG @ BHOLA PAYENG
R/O VILL- CHALICHUK
GHUNASUTI
P.S.- NORTH LAKHIMPUR
DIST- LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY, MR D L NATH

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

18.11.2024

Heard Mr. B Choudhury, 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) Numal Payeng**, son of Late Malong Payeng, **(ii) Kopet Payeng @Manuj Payeng**, son of Late Sashi Payeng @Shashi Payeng, **(iii) Aniram Payeng**, son of Gildar Payeng, **(iv) Miya Payeng**, son of Rajen Payeng, **(v) Deba Payeng**, son of Late Rupewar Payeng @Lopeshwar Payeng, **(vi) Sri Bikash Payeng @Bhola Payeng**, all resident of village Chalichuk, Ghunasuti, Police Station-North Lakhimpur, District-Lakhimpur, are praying for their bail in **North Lakhimpur Police Station Case No. 289/2024**, corresponding to G.R. No. 752/2024, registered under Sections 61(2)/126(2)/109/117(2) BNS, 2023 read with Sections

9/10/11 of Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015 read with Section 4 of Prevention of Damage to Public Property Act, 1984. Petitioner Nos.1 to 5 were arrested on 20.10.2024 and petitioner No.6 was arrested on 02.10.2024 and they are in custody since then.

3) From the FIR of the case dated 19.09.2024, it is seen that on a suspicion that the father of the informant, i.e., the victim, is involved in witchcraft, under whose treatment one person has already expired, the petitioners, by informing the public on the previous night through loudspeaker, called for a local meeting on 19.09.2024.

4) In the said meeting on 19.09.2024, the petitioners along with some other people assaulted the father of the informant, due to which he sustained grievous hurt and was undergoing treatment at North Lakhimpur Medical College and Civil Hospital.

5) Perused the case diary placed before the Court today by Ms. Bora, learned Additional Public Prosecutor, Assam.

6) It is seen from the case diary that in the meeting held on 19.09.2024, the accused person along with some other persons tried to assault the father of the informant by alleging that he is involved in witchcraft, but some of the other co-villagers protected him during the said assault.

7) Case diary also reveals that during such assault, father of the informant sustained injuries on his body. Later on, police arrived at the place of occurrence and somehow managed to rescue the father of the informant and send him to hospital for treatment. However, some of the accused persons damaged the police vehicle.

8) Case diary also reveals that Section 183 BNSS statement of the informant and the others present in the scene were recorded by the learned Sub-Divisional Judicial Magistrate, Lakhimpur, North Lakhimpur, on 18.10.2024.

9) However, the case diary which is updated up to 20.10.2024, does not contain any medical report of the alleged victim.

10) Considering the materials in the case diary and the period of detention of the petitioner Nos.1 to 5 from 20.10.2024 and petitioner No.6 from 02.10.2024 in custody, the Court is of

the view that further custodial detention of the petitioners, namely, **(i) Numal Payeng, (ii) Kopet Payeng @Manuj Payeng (iii) Aniram Payeng (iv) Miya Payeng (v) Deba Payeng (vi) Sri Bikash Payeng @Bhola Payeng**, in said North Lakhimpur P.S. Case No. 289/2024 are not warranted for investigation of the said case. As such, this bail application of the petitioners, named above, in said North Lakhimpur P.S. Case No. 289/2024 is accepted.

11) Accordingly, the petitioners, namely, **(i) Numal Payeng, (ii) Kopet Payeng @Manuj Payeng (iii) Aniram Payeng (iv) Miya Payeng (v) Deba Payeng (vi) Sri Bikash Payeng @Bhola Payeng**, be released on bail in said North Lakhimpur P.S. Case No. 289/2024 on furnishing a 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, Lakhimpur, North Lakhimpur, subject to the conditions that petitioners, named above —

- i)** shall appear before the concerned Investigating Officer of said North Lakhimpur P.S. Case No. 289/2024, as and when they are required for necessary investigation of the case;
- ii)** shall not leave the territorial jurisdiction of said North Lakhimpur 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;
- v)** shall not involve themselves in any criminal activities in the future and;
- vi)** shall not threaten the informant, father of the informant, i.e., the injured victim or anyone of their family members by themselves, jointly or individually or by anyone acting on their behalf.

12) Any violation of the aforesaid terms and conditions by the petitioners, namely, **(i) Numal Payeng, (ii) Kopet Payeng @Manuj Payeng (iii) Aniram Payeng (iv) Miya Payeng (v) Deba Payeng (vi) Sri Bikash Payeng @Bhola Payeng**, the bail granted to them in said North Lakhimpur P.S. Case No. 289/2024 shall stand automatically vacated.

13) This bail application accordingly stands allowed.

14) Return the Case Diary herewith.

JUDGE