

GAHC010231782024



2024:GAU-AS:12458

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

Case No. : Bail Appln./3368/2024

RAJIBUL ISLAM ALIAS RAJIBUL ISLAM AND 2 ORS
S/O- ABDUL KUDDUS ALI,
R/O- VILLAGE GOTLONG UNDER DOLABARI GAON PANCHAYAT,
P.O- KALIABHOMORA,
P.S-TEZPUR, PIN-784027, DIST- SONITPUR, ASSAM

2: NISARUL ISLAM ALIAS NESARUL ISLAM
S/O- SAIFUL ISLAM
R/O- 36 BAHABARI
DALGAON
KHARUPETIA
DIST- DARRANG
PIN-784115
ASSAM

3: MD OMAR ALI ALIAS OAMAR ALI
S/O- LATE RAHMAT ALI

R/O- VILLAGE GOTLONG UNDER DOLABARI GAON PANCHAYAT

P.O- KALIABHOMORA

P.S-TEZPUR
PIN-784027
DIST- SONITPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : ABHISEK BHATTACHARJEE, MS ANKITA SAHARIA,MR S PAUL,MS. K MALAKAR,MR. A BHATTACHARYA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

10.12.2024

Heard Mr. A Bhattacharya, learned counsel for the petitioners and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2. The petitioners, namely, (i) **Md. Rajibul Islam @ Rajibul Islam**, son of Abdul Kuddus Ali, resident of village-Gotlong under Dolabari Gaon Panchayat, P.S.-Tezpur, District-Sonitpur, (ii) **Md Nisarul Islam @ Nesarul Islam**, son of Saiful Islam, resident of 36 Bahabari Dalgaon, Kharupetia, District-Darrang and (iii) **Md Omar Ali @ Oamar Ali**, son of late Rahmat Ali, resident of village-Gotlong under Dolabari Gaon Panchayat, P.S.-Tezpur, District-Sonitpur have filed this application under Section 483 BNSS, 2023, praying for their release on bail in Chariduar Police Station Case No. 154/2024 registered under Sections 20(b)(ii)(C) of NDPS Act, corresponding to G.R. No. 1502/2024, in which they were arrested on 16.09.2024 and are in custody since then.

3. As per the FIR dated 14.09.2024, the case is that during naka checking a vehicle bearing Registration No. AS-01-EM-6316 coming from Bhalukpung side towards Balipara was intercepted in and around Bhubulagaon area. Though the said vehicle initially tried to flee away seeing police checking, but police personnel from Chariduar Police Station could apprehend the said vehicle and two persons, namely,

Pabitra Khudal and Dipankar Das were apprehended. During search of the said vehicle in presence of independent witness with due authorization 29 Nos. of white colored polythene bags containing some leafy material weighing 152.720 Kgs suspected to be Ganja (Cannabis) were recovered and accordingly seized from the said vehicle.

4. Accordingly, the said FIR dated 14.09.2024 was registered as Chariduar Police Station Case No. 154/2024 under Sections 20(b)(ii)(C) of NDPS Act, corresponding to G.R. No. 1502/2024.

5. Both, said Pabitra Khudal and Dipankar Das were arrested and produced before the learned Chief Judicial Magistrate, Sonitpur, Tezpur on 14.09.2024.

6. It is submitted by the learned counsel for the petitioners that though they were arrested on 16.09.2024 in said Chariduar Police Station Case No. 154/2024, but they are neither the FIR named accused nor involved in said criminal case and that they have been falsely implicated in the case. As such, they should be considered for their bail considering their detention since 16.09.2024.

7. Perused the case diary placed before the Court today by Mr. K K Parashar, learned APP, Assam along with the FSL report of the suspected NDPS items seized in the case.

8. FSL report dated 09.12.2024 indicates that the seized NDPS items confirmed to be Ganja (Cannabis), a scheduled NDPS item.

9. Though the petitioners are not FIR named accused, case diary indicates sufficient incriminating materials against the petitioner No. 1, named above, with regard to his involvement in the alleged crime. Accordingly, this bail application with regard to the petitioner No. 1, namely, **Md. Rajibul Islam @ Rajibul Islam**, son of Abdul Kuddus Ali, in said Chariduar P.S. Case No. 154/2024, **stands rejected**.

10. However, in the case diary no such incriminating materials could be found with regard to involvement of the petitioner No. 2, namely, **Md Nisarul Islam @ Nesarul**

Islam and the petitioner No. 3, namely, **Md Omar Ali @ Oamar Ali** in the alleged offence.

11. Accordingly, the petitioner No. 2, namely, **Md Nisarul Islam @ Nesarul Islam** and the petitioner No. 3, namely, **Md Omar Ali @ Oamar Ali**, be released on bail in said Chariduar P.S. Case No. 154/2024, on furnishing bail bond of Rs. 40,000/- each, with two local sureties each of the like amount, one of which shall be a Government employee, either State or Central Government, to the satisfaction of the learned Special Judge (NDPS), Sonitpur, Tezpur on conditions that the **petitioner Nos. 2 and 3** —

- (i) shall appear before the concerned Investigating Officer of said Chariduar P.S. Case No. 154/2024 on every Thursday commencing from 19.12.2024 for the next three English Calendar months or filing of Charge-Sheet, whichever is earlier;
- (ii) shall not leave the territorial jurisdiction of Chariduar Police Station without obtaining prior written permission from the concerned I.O. of the case;
- (iii) shall not hamper 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 and
- (v) shall not involve themselves in any criminal activities including possession or procurement of such NDPS items.

12. Any violation of the aforesaid terms and conditions by the petitioner No. 2 & 3, named above, the bail granted to them in said Chariduar P.S. Case No. 154/2024 shall stand automatically vacated.

13. With the above observations and directions, this bail application accordingly stands disposed of.

14. Return the case diary.

JUDGE

Comparing Assistant