

GAHC010255382024



2024:GAU-AS:12434

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

Case No. : I.A.(Crl.)/1185/2024
in
Bail Appln. No. 3599/2021

IMTIAZ AHMED AND ANR.
S/O LATE IFTAD AHMED
R/O BORHOLLA TEA ESTATE,
TITABAR, DIST. JORHAT, ASSAM, PIN-785631

2: SRI SIDARTHA SINGHA
S/O SRI DIBAKAR SINGHA
R/O BASISTHA CHARIALI
HOUSE NO. 27
P.S. BASISTHA
KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T J MAHANTA, MS. B BHUYAN, MR. N HUSSAIN, MS R
SAHIN, MS. B MAHANTA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

09-12-2024

Heard Mr. T. J. Mahanta, learned Senior Counsel assisted by Ms. N. Hussain, learned counsel for the applicants/petitioners and Mr. K. K. Parasar, learned Additional Public Prosecutor, Assam for the State.

2. Applicants are the Foresters, serving in the Forest Department of the State and presently posted in the Office of the Divisional Forest Officer, Kamrup West Division, Bamunigaon.

3. The Complainant, Dhruba Daimary lodged a written FIR before the Officer-in-Charge of Boko Police Station stating that on 10.12.2021 in the afternoon around 03:30 PM, when Forest Officials of South West Forest Division in presence of Bondapara Forest Range Officer and the concerned DFO along with the Forest Task Force and the CRPF Personnel while driving away a herd of wild elephants from the side of No.3 Dakhin Sekhadari Public Cemetery and paddy field by using their arms and firing, during such firing, one bullet hit his daughter, due to which she died on the spot and his wife also sustained bullet injury in her neck due to which she had to undergo medical treatment. Because of such wrong firing while sending the herds of elephants as he lost his daughter and his wife sustained bullet injuries, he lodged the FIR. Accordingly, Boko P.S. Case No. 1045/2021 corresponding to G.R. No.1189(K)/2021 under Sections 304/308/326 IPC read with Section 27 (1) of the Arms Act was registered and on 11.12.2021 both the applicants were arrested in said Boko P.S. Case No. 1045/2021.

4. Later, both the applicants as petitioners preferred Bail Appln. No. 3599/2021 in said Boko P.S. Case No. 1045/2021. The Court after perusal of the case diary and on hearing the Public Prosecutor as well as the complainant by order dated 03.01.2022 passed in said BA No. 3599/2021 granted bail to the applicants in said Boko P.S. Case with the following conditions:-

(a) shall not leave the territorial jurisdiction of the learned jurisdictional Chief Judicial Magistrate, without prior written permission from him;

(b) shall not hamper with the investigation, or tamper with the evidence of the case;

(c) 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 him from disclosing such facts to the Court or to any police officer; and

(d) shall appear before the Investigating Police Officer once in every three days till investigation is completed since there is an allegation that they are not co-operating with the investigation of the case.

5. Mr. Mahanta, learned Senior Counsel appearing for the applicants submitted that till date, the State has not filed the charge-sheet in the case and pursuant to the order dated 03.01.2022 passed in said BA No. 3599/2021, the applicants are regularly appearing before the concerned Investigating Officer of said Boko P.S. Case in every 3 (three) days.

6. It is also submitted by the applicants that they are presently serving in the Office of the Divisional Forest Officer, Kamrup West Division, Bamunigaon for the last more than 3 (three) years and their transfers are also due.

7. As such, Mr. Mahanta, learned Senior Counsel for the applicants submitted that the conditions of bail specified in the order dated 03.01.2022 passed in said

BA No. 3599/2021, particularly, the conditions Nos. (a) and (d) in it may be appropriately altered, so that the applicants need not suffer any further.

8. On being enquired, Mr. K. K. Parasar, learned APP on instruction of the Officer-in-Charge of Boko Police Station submitted that both the applicants are appearing before the concerned Investigating Officer of said Boko P.S. Case No.1045/2021 regularly and they are cooperating with the investigation of the case. It is also stated that said Boko P.S. Case is presently pending for non-receipt of prosecution sanction from the Forest Department of the State due to which charge-sheet in the case could not be filed till date.

9. After hearing both the sides and considering the above, the condition Nos. (a) and (d) specified in the order dated 03.01.2022, passed earlier in BA No. 3599/2021 are modified/substituted as follows:-

(a) that the applicants/petitioners, namely, **(1) Md. Imtiaz Ahmed** and **(2) Sri Sidartha Singha** without providing their proper details of phone numbers, destination, place of posting to the concerned Investigating Officer of said Boko P.S. Case No. 1045/2021 shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Kamrup, Amingaon and

(d) shall appear before the Investigating Officer of said Boko P.S. Case No. 1045/2021 as and when they are required for necessary investigation of said Boko P.S. Case.

10. With the above observation and directions, this interlocutory application stands disposed of.

11. This order shall be read together with the order dated 03.01.2022, passed in Bail Appln. No. 3599/2021, preferred by the present applicants as petitioners.

12. Copy of the communication of the Officer-in-Charge of Boko Police Station dated 09.12.2024, placed before the Court by Mr. Parasar, learned APP be kept as part of the record.

JUDGE

Comparing Assistant