

GAHC010278842023



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

Case No. : Bail Appln./4278/2023

SALEM UDDIN @ SELIM UDDIN AND ANR
S/O LATE JAHIR UDDIN
R/O VILL- CUTOK
P.S. NILAMBAZAR
DIST. KARIMGANJ
ASSAM

2: MOINUL HAQUE
S/O LATE ASHMAID ALI
R/O VILL- BAZARGHAT
P.S. RATABARI
DIST. KARIMGANJ
VERSUS

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

Advocate for : MR. M A CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 11-01-2024

1. Heard Mr. M.A. Choudhury, learned counsel for the petitioners *Salem*

Uddin @ Selim Uddin and Moinul Haque.

2. The petitioners *Salem Uddin @ Selim Uddin and Moinul Haque* have filed this application under *Section 439* of the Code of Criminal Procedure and they are behind bars since 11.06.2023 in connection with *Sessions Case No. 141 of 2023 arising out of Nilambazar Police Station Case No. 113/2023 registered under Sections 398/399 of IPC* read with *Sections 21(1A)/35 of Arms Act* pending in the Court of learned Additional Sessions Judge, Karimganj.

3. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent State of Assam.

4. It is submitted on behalf of the petitioners that they were arrested speculating that they were preparing to commit dacoity. Charge sheets have also been erroneously laid against the petitioners. The allegations against the petitioners are that while the petitioners were intercepted by the police party. They were apprehended, carrying one handmade pistol, three handmade sub rifle, boll bearing use as buckshot, four nos. 22 (twenty two) rounds, one 12 (twelve) bore cartage, some gun powder and one door breaking lever. It is submitted on behalf of the petitioners that as these articles were recovered from the car in which the petitioners were travelling, it was erroneously speculated that the petitioners were making preparation for dacoity whereas this is not so.

5. The learned Additional Public Prosecutor has raised serious objection stating that the petitioners were carrying a huge cache of arms which clearly reveals the petitioners' intention.

6. I have considered the submissions at the bar with circumspection.

7. The petitioners have been behind bars since 11.06.2023. Trial has not yet commenced. The petitioners are local residents and they have pledged to

cooperate with the trial. It is also submitted that further detention may result in punitive detention.

8. Considering all aspects and in view of my foregoing discussions, petition is allowed.

9. The petitioners *Salem Uddin @ Selim Uddin and Moinul Haque* are enlarged on bail on furnishing a bail bond of *Rs.1,00,000/- (Rupees One Lac)* each with a local surety of like amount to the satisfaction of the learned trial Court. The learned trial Court may impose conditions to secure attendance of the petitioners during trial.

Bail Application stands disposed of in the above terms.

JUDGE

Comparing Assistant