

GAHC010269442023



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

Case No. : Bail Appln./4361/2023

GOLAP HUSSAIN AND ANR
S/O MOKSED ALI
R/O FULKAKATA PT. 3,
VTC- MUTHKHOWA PT. I,P.O. MUTHKHOWA, DIST. DHUBRI (NOW)
SOUTH SALMARA, MANKACHAR, ASSAM

2: HAZRAT ALI
S/O ABDUL BAREK
R/O FULKAKATA PT. 3
VTC, MUTHKHOWA PT. 1
P.O. MUTHKHOWA
DIST. DHUBRI (NOW) SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
THROUGH THE PP, ASSAM

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.01.2024

Heard Mr. M.H. Laskar, learned counsel for the accused and also heard Mr. R.J.

Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 439 Cr.P.C. is preferred by two accused, namely, Golap Hussain and Hazrat Ali, who have been languishing in jail hazot since 09.11.2023, in connection with Dhubri P.S. Case No.468/2023, under Section 489(A)/489(B)/489(C)/34 of the IPC, for grant of bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by ASI Sanjay Choudhury of Dhubri P.S. on 09.11.2023. The essence of allegation made in the aforesaid FIR is that on that day at about 3:00 p.m. the informant along with other staff apprehended one Golap Hussain and Hazrat Ali and recovered from their possession ₹ 97,000/- of suspected fake Indian currency notes and accordingly, seized the same by preparing seizure list in presence of witnesses.

4. Mr. Laskar, learned counsel for the accused, submits that the accused are behind the bar for last 56 days and that though the case was registered under Section 489(A)/489(B)/489(C)/34 IPC, yet, only the offence under Section 489(C) IPC is attracted here in this case, as the allegedly counterfeit notes were recovered from their possession, and the said offence is bailable offence and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the accused persons and that the FSL report indicates that the notes, recovered and seized from the possession of the accused persons, are fake Indian currency notes and therefore, Mr. Baruah contended to dismiss the petition.

6. Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary along with the FSL report available therein.

7. The FSL report dated 01.12.2023, indicates that the notes recovered and seized

from the possession of the accused persons are fake Indian currency notes of 500 denomination. The case diary indicates that the accused persons dealt with the business of fake currency note on commission basis. The investigation is still going on and some of the culprits are yet to be arrested and enlarging the accused persons on bail at this stage will hamper the investigation and accordingly, this Court is of the view that this is not a fit case where the privilege of bail can be granted to the accused persons and consequently, the petition stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant