

GAHC010272852023



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

Case No. : Bail Appln./4422/2023

AMIR ALI @ KHAN AND ANR
S/O HUSSAIN ALI, R/O VILL-GARIGAON, P.S.-JALUKBARI, DIST-KAMRUP
(M), ASSAM

2: CHAMPA BEGUM
W/O NANABABU @ HOBIB ALI
R/O VILL-GARIGAON
P.S.-JALUKBARI
DIST-KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 09-01-2024

1. Heard Mr. A.K. Azad, learned counsel for the petitioner *Amir Ali @ Khan and Champa Begum*.

2. The petitioners have filed this application under Section 439 of the *Code of Criminal Procedure* with prayer for bail as they are behind bars since 24.11.2023 in connection with *Mukalmuwa Police Station Case No. 571/2023* under *Sections 120(B)/370(4) of IPC* read with *Section 81 of the JJ Act, 2015*.
3. The allegation against the petitioners is that with the help of Champa Begum petitioner No. 2, Alam Ali sold his infant for *Rs.1,00,000/- (Rupees One Lac)* to Amir Ali. It is submitted on behalf of the petitioners that Amir Ali and his wife has adopted the son of Alam Ali and a Deed of Adoption has also been executed but the adoption process could not be completed due to certain cases pending in the Office of the Deputy Commissioner. The Deed of Adoption is appended along with the petition.
4. The learned Additional Public Prosecutor has raised objection stating that there are incriminating materials in the case diary that Amir Ali had accepted the baby from Alam Ali by paying an amount of *Rs.1,00,000/- (Rupees One Lac)* to Alam Ali.
5. I have considered the length of detention.
6. A scrutiny of the case diary reveals that investigation has progressed to a considerable extent. I have considered the submissions that the child has now been recovered and is in the custody of the mother at present. It appears that further custodial detention may not be required for the progress of the investigation.
7. Considering all aspects, petition is allowed.
8. The petitioner is enlarged on bail on furnishing a bail bond of *Rs,50,000/- (Rupees Fifty Thousand)* each with a suitable surety of like amount to the satisfaction of Eleka Magistrate under the conditions that:

The petitioners shall cooperate with the investigation.

9. Send back the case diary.

Bail Application stands disposed of in the above terms.

JUDGE

Comparing Assistant