

GAHC010275532023



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

Case No. : Bail Appln./4471/2023

JAHER ALI @ JAHIR ALI AHMED AND ANR
S/O- SIRAJUL HAQUE , RESIDENT OF KARIGAON NO-2 P.O- NO.2 BARUAH
PATHAR P.S- BOKO, DISTRICT- KAMRUP, ASSAM.

2: ALIMUDDIN AHMED
S/O- SONAR UDDIN AHMED
RESIDENT OF KARIGAON NO-2 P.O- NO.2 BARUAH PATHAR P.S- BOKO
DISTRICT- KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

04.01.2024

Heard Mr. S. Munir, learned counsel for the petitioners. Also heard Mr. K.K. Das, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Jaher Ali @ Jahir Ali Ahmed and 2. Alimuddin Ahmed, who are detained behind the bars since 26.11.2023 (for last 36 days) in connection with Jalukbari P.S. Case No. 672/2023 under Section 392/511/34 of the Indian Penal Code.

The gist of accusation in this case is that on 15.11.2023, one Rohini Kumar Chodhury, lodged an FIR before the Officer-In-Charge of Jalukbari Police Station, *inter-alia*, alleging that on 14.11.2023 at about 10:00 PM, when the informant along with his driver Sri Jintu Das was returning from Gotanagar after closing his shop situated at Gotanagar, two miscreants came on a motorcycle and compelled them to stop their vehicle near Nursery and thereafter, three other miscreants, who were aged about 22-25 years with some arms stepped out of a black wagon R car and headed towards the first informant.

It is further stated in the FIR that the first informant and his driver somehow managed to flee from the scene, however, the three miscreants attacked the window pane of the vehicle of the informant.

Learned counsel for the petitioners has submitted that both the petitioners are aged about 35-36 years and are in no way involved in the offence alleged against them in the FIR.

Learned counsel for the petitioners has also submitted that the petitioners are already detained behind the bars for last 36 days and considering the period of detention, they may be allowed to go on bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Jalukbari P.S. Case No. 672/2023 and has vehemently opposed the grant of bail to the present petitioners on the ground that there is evidence on record that both the petitioners are involved in preparing fake documents of

stolen vehicles and are connected with the vehicles which are involved in this case, i.e. the wagonR and one motor bike which was found without any number plate.

Learned Additional Public Prosecutor has also submitted that there is also evidence to show that according to CDR details they are in constant touch with the miscreants who are yet to be arrested.

I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record including the case diary of Jalukbari P.S. Case No. 672/2023. Though learned Additional Public Prosecutor has opposed the grant of bail to the present petitioners, however, on perusal of the case diary, it appears that at this stage of the investigation there is no direct evidence against the present petitioners regarding their involvement in the offence alleged in the FIR though there may be ground to suspect their involvement in some manner in the alleged offence. However, the same may not be sufficient to justify any further detention considering the period of detention they have already undergone, i.e., 36 days.

Under the above circumstances, this Court is of the considered opinion that further custodial detention of the present petitioners may not be necessary for fair completion of the investigation of Jalukbari P.S. Case No. 672/2023 if the petitioners co-operate with the Investigating Officer.

In view of the above, the above named petitioners are hereby allowed to go on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (Metro) at Guwahati subject to the conditions that:-

- (i) the petitioners shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be

acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and (ii) the petitioners shall co-operate in the investigation.

With the above observation, this bail application is hereby disposed of.
Send back the case diary.

JUDGE

Comparing Assistant