

GAHC010291742023



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

Case No. : Bail Appln./4655/2023

SADDAM HUSSAIN AND 3 ORS
S/O- ABDUL HAKIM,
VILL- NO-2 MOHOGULI,
P.O- SALMARA,
P.S- NORTH LAKHIMPUR,
DIST- LAKHIMPUR, ASSAM

2: SANTOSH MANDAL
S/O- BIMAL MANDAL

R/O- AIHO BOKSHI NAGAR
HABIBPUR
MALDA

WEST BENGAL
INDIA

3: NITAI HALDER
S/O- AMULLA HALDER
R/O- LAKHIPUR
MALDA
WEST BENGAL
INDIA

4: DEBDAS HALDER
S/O- SANKAR HALDER
R/O- SATYAGACHI SCHOOL PARA
HABIBPUR
MALDA
WEST BENGAL
INDI

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 10.01.2024

- 1)** Heard Mr. M. H. Ahmed, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.
- 2)** This application under Section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1) Saddam Hussain, 2) Santosh Mandal, 3) Nitai Halder, and 4) Debdas Halder who have been detained behind the bars since 12.12.2023 (for last 29 days) in connection with Basistha P. S. Case No. 781/2023 under Sections 120B/420/511/489(A)/489(C) of the Indian Penal Code.
- 3)** The gist of the accusation against the petitioners in this case is that on 12.12.2023 one Rohit Das S. I. of Police had lodged an FIR before the Officer-In-Charge of Basistha Police Station, *inter-alia*, alleging that on that day at about 11.10 am acting on a specific information regarding some dealing and delivery of fake gold and fake currency in Lalmati area a search team was constituted and a search operation was conducted in front of Mama Bhagin Hotel, near IIE Office under Basistha Police Station and the present petitioners along with two other persons were apprehended with 315 numbers of fake

Indian currency notes of Rs. 1,08,490/- in cash as well as 3 numbers of fake gold boat from the possession of the present petitioners.

4) Learned counsel for the petitioners has submitted that the petitioner were mere onlookers and they assembled in front of Mama Bhagin Hotel after seeing the public gathering there to see the other co-accused namely, Manoj Kumar Sharma and Shivam Kumar and then the police came there and arrested all of them.

5) It is further submitted by learned counsel for the petitioners that they are not involved in the offence alleged in the FIR.

6) It is also submitted by learned counsel for the petitioner that the petitioner are detained behind the bars for last 28 days out of which 5 days they were in police custody and considering the period of detention they may be allowed to go on bail.

7) On the other hand, public prosecutor has submitted that the accused Saddam Hussain is one of the member involved in the racket which is indulged in the similar offence elsewhere also and the other three accused came there to purchase the fake gold.

8) The learned Additional Public Prosecutor has vehemently opposed the grant of bail to the present petitioners mainly the accused Saddam Hussain, on the ground that some other members of the said racket are yet to be arrested.

9) I have considered the submissions made by the learned counsel for the petitioner as well as by learned Additional Public Prosecutor.

10) It appears from the case diary of Basistha P. S. Case No. 781/2023 that the only material against the petitioners namely, Santosh Mandal, Nitai Halder, and Debdas Halder is that they assembled in front of Mama Bhagin Hotel to purchase the fake gold and no other allegations is against them whereas there

are incriminating materials against the petitioner Saddam Hussain being involved in the racket which was indulged in similar offence earlier also.

11) It also appears from the case diary that the Investigating Officer has recorded the statement of the accused persons and other witnesses and the investigation in this case is pending only for want of the receipt of FSL report.

12) Though some incriminating materials are there against the accused Saddam Hussain, however considering the period of detention already undergone by the above named petitioners and also the fact that their statements have been recorded, this Court is of the considered opinion that further custodial detention of the petitioners does not appear to be necessary for fair completion of the investigation.

13) In view of the above, the petitioners, namely, 1) Saddam Hussain, 2) Santosh Mandal, 3) Nitai Halder, and 4) Debdas Halder are hereby allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount subject to the satisfaction of the learned Chief Judicial Magistrate, Kamrup (M) with the following conditions:

- i. That the petitioners shall cooperate in the investigation.
- ii. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

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

JUDGE

Comparing Assistant