

GAHC010293652023



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

Case No. : Bail Appln./4714/2023

BAPAN DEBNATH @ BAPAN CH. DEBNATH AND 2 ORS.
S/O JOYTINDRA CH. DEBNATH @ JATINDRA CH. DEBNATH
R/O VILL- BIJNI TOWN,
P.S. BIJNI
DIST. CHIRANG, ASSAM

2: NIRANJAN CH. DEBNATH @ NIRANJAN DEBNATH
S/O JIBON CH. DEBNATH @ JATINDRA CH. DEBNATH
R/O VILL- BONGAIGAON

DIST. BONGAIGAON
ASSAM

3: SWMBLA BASUMATARY
S/O DHOBEN BASUMATARY
R/O VILL- SHIMLAGURI
P.S. KAJALGAON
DIST. CHIRANG
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.01.2024

Heard Mr. A. Choudhury, 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 three accused persons, namely, Bapan Debnath @ Bapan Ch. Debnath, Niranjana Ch. Debnath @ Niranjana Debnath and Swmbala Basumatary, who are languishing in jail since 19.12.2023, in connection with Bongaigaon P.S. Case No.546/2023, under Section 120(B)/419/387/34 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 one Harun Khan on 18.12.2023. The essence of allegation made in the aforesaid FIR is that on 18.12.2023, at about 4:00 p.m., the informant was carrying Khayar logs from Amguri of Chirang district towards Guwahati and while he reached Chaprakata, then 6 unknown persons, who arrived at there in one Bolero vehicle, bearing Registration No.AS-01EJ-6934 and in motorcycle wrongfully restrained him, being identified themselves as the persons of Anti Corruption branch and snatched away the key of his vehicle from him and also demanded a sum of ₹ 4,00,000/- from him.

4. Mr. Choudhury, learned counsel for the accused, submits that the accused persons were arrested on 19.12.2023 and since then they have been languishing in jail since for last 22 days and that they are the members of Village Defence Party (VDP) and they also admittedly stopped the vehicle, but there was no demand as alleged in the FIR and there is no delivery of money so as to attract Section 387 IPC and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition. Mr. Choudhury further submits that before causing arrest of the accused persons, no notice under Section 41 and 41(A) of the Cr.P.C. has been shown to the accused.

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 though the I.O. has collected some material in support of the allegation made in the FIR, yet the I.O. has achieved substantial progress in the investigation of this case.

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 with the assistance of Mr. Baruah, learned Additional P.P.

7. It appears that the accused were arrested on 19.12.2023 and since then they are languishing in jail hazot. Further, it appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case. Given the nature of accusation and the punishment prescribed for the same and balancing the same with the period of detention, this Court is of the view that further custodial detention of the accused persons seems to be not warranted in the interest of investigation and therefore, this Court is inclined to allow this petition.

8. It is provided that on furnishing a bond of Rs.50,000/- each, with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Bongaigaon, the accused persons, namely, Bapan Debnath @ Bapan Ch. Debnath, Niranjana Ch. Debnath @ Niranjana Debnath and Swambla Basumatary, be enlarged on bail.

9. In terms of above, this bail application stands disposed of. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant