

GAHC010008982024



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

Linked Case : Bail Appln./178/2024

RUPCHAN ALI AND 3 ORS
S/O LATE SABUR UDDIN
R/O VILL- PADMERALGA PART-I
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM

2: BAHAR ALI
S/O LATE ABIRUDDIN
R/O VILL- PADMERALGA PART-I
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM

3: SUNA UDDIN
S/O LATE SHAMSER ALI
R/O VILL- PADMERALGA PART-I
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM

4: SAIDUL ISLAM @ SAIDUL BADSHA
S/O LATE KAPIL UDDIN
R/O BHELENGAMARI
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM
VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE PP
ASSAM

2:SURAJ JAMAL

S/O-LATE JIRU MALLICK
R/O- PADMERALGA PART-I
P.S- FAKIRGANJ
DIST- DHUBRI (ASSAM)

Advocate for : MR H R A CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

02.02.2024

Heard Mr. A. Ahmed, learned counsel appearing for the accused petitioners as well as Mr. B. B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent. The respondent No.2 has received notice but none has appeared.

By this petition under Section 439 Cr.P.C., the accused-petitioners, namely **(1) Rupchan Ali (2) Bahar Ali (3) Suna Uddin and (4) Saidul Islam @ Saidul Badsha**, have prayed for grant of bail in connection with **Special Case No. 244/2022** arising out of **Fakirganj PS Case No. 138/2021** registered u/s **120(B)/376(3) of IPC, R/W Section 4 of POCSO Act.**

The petitioners have been forwarded to custody on 28.12.2023, after the trial court issued summons against them under Section 319 Cr.P.C.

It is submitted that the petitioners were not facing trial. Trial commenced against the accused No.1 named in the FIR. Final Report was submitted against the present petitioners and Final report was accepted after hearing the informant and the victim. However, during trial when the evidence of two witnesses was recorded, the trial court issued summons against the petitioners under Section 319 Cr.P.C. and when the petitioners appeared before the trial court they were forwarded to custody.

I have heard Mr. B. B. Gogoi, learned Addl. P.P., Assam appearing for the State respondent.

I have considered the submissions at the bar. It is submitted that the petitioners are the local residents and are willing to co-operate with the trial. It is also submitted that no overt act was attributed to the petitioners. The allegation against them is that they tried to protect the main accused who committed sexual assault on the minor victim. Moreover, it is submitted that a false case has been initiated against all the petitioners.

Considering the submissions at the bar with circumspection, I deemed it to be a fit case to grant the bail.

Accordingly, it is provided that the accused petitioners, named above, shall be released on bail of **Rs.50,000/- (Rupees Fifty Thousand) each** with a suitable surety of like amount to the satisfaction of learned trial court subject to the following condition-

- i) That the accused petitioners shall continue to appear before the learned trial Court on all dates to be fixed from time to time till the case is disposed of; and
- ii) That the accused petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Police Officer or the Court.

Breach of any of the above conditions shall render cancellation of bail in accordance with law.

The bail application is disposed of.

JUDGE

Comparing Assistant