

GAHC010007402023



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

Case No. : AB/120/2023

ABUL KALAM @ ABUL KALAM AZAD AND 2 ORS
S/O ANAR HUSSAIN
R/O BHOKUAMARI
P.S. BARPETA
DIST. BARPETA, ASSAM

2: FAKAR UDDIN @ FAKRUL
S/O HAZRAT ALI
R/O BHOKUAMARI
P.S. BARPETA
DIST. BARPETA
ASSAM

3: KAZIMUDDIN @ KALU
S/O HAZRAT ALI
R/O BHOKUAMARI
P.S. BARPETA

DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

03.03.2023

Heard Mr. S. Munir, learned counsel for the applicant and Mr. R.R. Koushik, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the Barpeta P.S. Case No. 1206/2022, under Sections 120[B]/354[B]/325/379/341/506 of the IPC read with section 67 of the IT Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by the applicants, namely, Abul Kalam @ Abul Kalam Azad; Fakar Uddin @ Fakrul; and Kazimuddin @ Kalu for grant of pre-arrest bail.

3. The said case has been registered on the basis of an FIR lodged by Smti X [name withheld] on 14.12.2022. The allegation leveled in the FIR, by the informant as well as by the victim, is that on 10.12.2022, while she was preceding to the house of one Abul Hashem of Suhagpur, at about 4 pm, one Fakrul hatched a conspiracy with Abul Kalam, Sahil, Rana, Pashan, Abdus Samad and Shahidul Islam, snatched a sum of Rs. 20,000/- from her bag and in the house of Abul Kashem they made her naked and assaulted her and caused injured on her person and also snatched away one gold chain, ring, mobile handset and taken her naked photograph and made the same viral.

4. Mr. Munir, learned counsel submits that this court after perusing the case diary, vide order dated 07.02.2023, in BA No. 147/2023, this court has already granted bail to one Samad Khan and vide order dated 08.02.2023, in AB No. 356/2023, has granted pre-arrest bail to one Habibar Rahman and that the

present applicants are in the same footing and they are ready to cooperate with the investigating agency, and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Koushik, learned Additional Public Prosecutor submits that the IO has collected sufficient materials against the applicants, and therefore, Mr. Das contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case Diary produced before this Court with the assistance of Mr. Koushik, learned Additional Public Prosecutor.

7. It appears that the IO has collected sufficient incriminating materials against the applicants. The offences are serious in nature and the investigating is still going on and at this stage it is difficult to evaluate the veracity of the statement of the witnesses recorded under section 161 of the Cr.P.C.

8. Accordingly, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicants and therefore, the same is dismissed.

9. Case diary be returned.

JUDGE

Comparing Assistant