

GAHC010022302023



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

**Case No. : AB/325/2023**

AZINUR HUSSAIN AND ANR.  
S/O- MONOWAR HUSSAIN, R/O- JHAGRARPAPAR, P.S. AND DIST. DHUBRI,  
ASSAM, PIN- 783325.

2: MONOWAR HUSSAIN  
S/O- LATE ISMAIL HUSSAIN  
R/O- JHAGRARPAPAR  
P.S. AND DIST. DHUBRI  
ASSAM  
PIN- 783325

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner : MR. T J MAHANTA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**10.03.2023**

Heard Mr. T.J. Mahanta, learned Sr. counsel appearing for the petitioners.  
Also heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for

the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **i) Azinur Hussain and ii) Monowar Hussain**, apprehending arrest in connection with **Dhubri P.S. Case No. 14/2023** corresponding to **G.R. No. 74/2023** registered u/ss **376/354/325/506** of the IPC read with Section **6** of the POCSO Act, 2012.

The Case diary, as called for, is placed before the Court.

It may be mentioned that by order, dated 06.02.2023, this Court granted the privilege of interim pre-arrest bail to the petitioner No. 2.

The medical report shows no evidence of recent sexual intercourse on the person of the victim, who is aged about 18 years 8 months. Statement of the victim recorded u/s 164 Cr.P.C. indicates love relationship between her and the petitioner No. 1 for about 2 years.

Pursuant to the interim pre-arrest bail granted earlier, the petitioner No. 2 has appeared before the investigating officer and got his statement recorded u/s 161 Cr.P.C.

In the backdrop of facts and evidence emerged from the case diary, this Court is of the opinion that custodial interrogation of the petitioners in the interest of the ongoing investigation may not be necessary.

Accordingly, the interim pre-arrest bail granted to the petitioner No. 2 vide order, dated 06.02.2023 is hereby made absolute, subject to the following conditions-

- (i) That the petitioners No. 2 shall co-operate in investigation as and when required; and

- (ii) That the petitioners No. 2 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 Court or to any police officer.

In respect of the petitioner No. 1, it is provided that in the event of arrest, he shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 20,000/- (Rupees Twenty Thousand)** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners No. 1 shall appear before the Investigating Officer within 7 days, failing which, on and from the 8<sup>th</sup> day, this pre-arrest bail order shall automatically come to an end; and
- (ii) That the petitioners No. 1 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 Court or to any police officer.

Return the case diary.

This disposes of the anticipatory bail application.

**JUDGE**

**Comparing Assistant**