

GAHC010039482023



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

Case No. : AB/625/2023

TAIJOT KHAN AND 6 ORS
S/O. AHED KHAN, VILL. BANACHARA, P.O. JAMADARHAT, P.S.
FAKIRGANJ, DIST. DHUBRI, ASSAM.

2: MOTIOR KHAN
S/O. AHED KHAN
VILL. BANACHARA
P.O. JAMADARHAT
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM.

3: ABDUR ROSHID
S/O. ALIM UDDIN
S/O. AHED KHAN
VILL. AND P.O. JAMADARHAT
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM.

4: SANUDUL KAZI
S/O. JAHAR KAZI
VILL. BANACHARA
P.O. JAMADARHAT
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM.

5: AMIR HAMJA
S/O. ABDUL AWAL MIAH
VILL. AND P.O. JAMADARHAT
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM.

6: LALCHAN ALI
S/O. KOHIM UDDIN
VILL. PORAVITA
P.O. JAMADARHAT
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM.

7: ABDUL MONNAF
S/O. AFAJ UDDIN
VILL. BALATARI
P.O. JAMADARHAT
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 17.03.2023

Heard Mr. M. H. Laskar, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners, who are

apprehending arrest in connection with Fakirganj P.S. Case No. 295/2014, under Sections 143/147/342/325/338/353 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mr. M. H. Laskar, that the present accused/petitioners are innocent and no way connected with the alleged offence. The F.I.R. was lodged on 07.11.2014 for the incident that occurred on 10.10.2014. However, for the last 9 years, the police never searched for them and hence, they were not at all aware about the lodging of the F.I.R. against them. It is a fact that on the day of incident, 3 (three) youths (dacoits) were detained with arms and ammunitions from their possession, where numbers of villagers gathered and out of anger, they started pelting stone to the dacoits, who were arrested by the police. But, the present petitioners were not at all involved in the alleged offence of pelting stone to the police personnel neither they made any obstruction in discharging their duties. More so, after the lapse of about 9 years, the custodial interrogation of the present accused/petitioners are not necessary. However, they are ready and willing to co-operate with the I.O. in further investigation of case if they are granted with the privilege of pre-arrest bail.

In this context, the learned Additional Public Prosecutor, Mr. P. Borthakur, has submitted that it is a fact that around 2,000 to 3,000 numbers of people gathered at the time of incident and their intention was to assault the arrested dacoits and not the police personnel. More so, there is no medical report if any

police personnel sustained injury in that incident. Accordingly, it is submitted that the pre-arrest bail prayer of the present accused/petitioners may be considered.

Considering the submissions of learned counsels of both sides and also considering the nature of offence as well as the materials in the Case Diary, I find that custodial interrogations of the present accused/petitioners are not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, (i) Taijot Khan, (ii) Motior Khan, (iii) Abdur Roshid, (iv) Sanudul Kazi, (v) Amir Hamja, (vi) Lalchan Ali & (vii) Abdul Monnaf, in connection with Fakirganj P.S. Case No. 295/2014, under Sections 143/147/342/325/338/353 of the Indian Penal Code, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioners shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (ii) that the 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 Court or to any police officer.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant