

GAHC010053252023



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

Case No. : AB/943/2023

NUR MAMUD @ NUR MOHAMMAD AND ANR
S/O HELAL UDDIN
R/O BORMA BILL,
P.O. MOWAMARI,
P.S. SAMAGURI
DIST. NAGAON, ASSAM
PIN-782140

2: ALI AHMED
S/O HELAL UDDIN
R/O BORMA BILL
P.O. MOWAMARI
P.S. SAMAGURI
DIST. NAGAON
ASSAM
PIN-782140

VERSUS

THE STATE OF ASSAM
REP. BY THE LEARNED PP ASSAM

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

12.05.2023

Heard Mr Alhajj I Uddin, learned counsel appearing for the petitioners and Mr R R

Kaushik, learned Additional Public Prosecutor for the State of Assam.

2. By this application filed under Section 438 CrPC, the petitioners, 1) Nur Mamud @ Nur Mohammad and 2) Ali Ahmed, have sought for pre-arrest bail, apprehending their arrest in connection with Samaguri PS Case No. 78 of 2023, registered under Sections 333/392/325/34 of the IPC

3. Learned counsel for the petitioner has submitted that interim bail was granted to the petitioner No. 2, Ali Ahmed, by this Court vide order dated 17.03.2023. He further submits that no such serious allegation has been made against the petitioner in the FIR. So, the interim order dated 17.03.2023, may be made absolute.

4. Regarding petitioner No. 1, Nur Mohammad, it is submitted that as per the FIR, he had assaulted an Easypay Sub-Agent and meter reader, Mizanur Rahman, with a sharp weapon, causing injury to his person, but no such allegation is made out in the FIR so as to attract the offence under Section 392 IPC.

5. On the other hand learned Additional Public Prosecutor has produced the Case Diary. The learned Additional Public Prosecutor submits that as per the medical report, on examination of the victim, the doctor did not find any sign of injury on the person of the victim. It is further submitted that none of the witnesses have specifically stated in their statements recorded under Section 161 CrPC, regarding the allegations so as to attract the offence under Section 392 IPC. So, he has no objection if the interim bail order dated 17.03.2023, in respect of the petitioner No. 2 is made absolute and the petitioner No. 1 is granted bail.

6. I have perused the Case Diary as well as the documents annexed with the record.

7. In view of the facts and circumstances of the case and having regard to the submissions made by the learned counsel for both the parties, this Court is of the opinion that it is a fit case where the privilege of pre-arrest bail can be extended to the petitioner No. 1, Nur Mamud @ Nur Mohammad and the interim bail order dated 17.03.2023, in

respect of the petitioner No. 2, Ali Ahmed, can be made absolute.

8. Accordingly, interim bail order dated 17.03.2023, in respect of petitioner No. 2, Ali Ahmed, is hereby made absolute and it is provided that in the event of arrest in connection with Samaguri PS Case No. 78 of 2023, the petitioner, namely, Nur Mamud @ Nur Mohammad, shall be released on pre-arrest bail on executing a bond of Rs. 20,000/- (Rupees Twenty Thousand), with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

(i) the petitioner No. 1 is directed to appear before the Investigating Officer within a period of 7 (seven) days from today.

(ii) that the petitioner No. 1 shall make himself available for interrogation by the Investigating Officer as and when required;

(iii) that the petitioner 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.

(iv) the petitioner No. 1 shall not leave the jurisdiction of the Court, without prior permission of the Court. In case of violation of any of the above conditions by the petitioner, the learned Public Prosecutor is at liberty to move before this Court for cancellation of bail.

14 With the aforesaid observations and directions this Anticipatory Bail Application stands disposed of.

15. Send back the Case Diary.

JUDGE

Comparing Assistant