

GAHC010063492023



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

Case No. : AB/1097/2023

NOWSHAD ALI AND 5 ORS
S/O JAHAN UDDIN
VILL- GUTIPARA PT.VI
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI, ASSAM
PIN-783348

2: DULAL PARAMANIK
S/O HOSEN ALI
VILL- GUTIPARA PT.VI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

3: ASATULLAH
S/O ALIMUDDIN @ ALIMUDDIN DEWANI
VILL- GUTIPARA PT.VI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

4: HASEN ALI PARAMANIK
S/O IMAN ALI
VILL- GUTIPARA PT.VI
P.S. BILASIPARA
DIST. DHUBRI
ASSAM

5: KUDDUS ALI
S/O GAYAN ALI
VILL- GUTIPARA PT.VI
P.S. BILASIPARA
DIST. DHUBRI

ASSAM

6: ABDUL KARIM @ KORIM ALI PARAMANIK
S/O HUSSAIN ALI @ HOSSEN MOLLAH
PARAMANIK
VILL- GUTIPARA PT.VI
P.O. NAYERALGA
P.S. BILASIPARA
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:MAYNUDDIN SK.
S/O MOJAFOR ALI
VILL- GUTIPARA PT.VI
P.S. BILASIPARA
DIST. DHUBRI
ASSA

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 12.05.2023

Heard Mr. N. J. Dutta, learned counsel appearing for the petitioners. Also Heard Mr. R. J. Baruah, 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 **1. Noushad Ali, 2. Dulal Paramanik, 3. Asatullah, 4. Hasen Ali Paramanik, 5. Kuddus Ali, 6. Abdul Karim @ Korim Ali**

Paramanik, apprehending arrest in connection with **Bilasipara P.S. Case No. 766/2020** registered u/s **366A/342/376(D)(A)/34** of the IPC, r/w Section **4** of POCSO Act.

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

It may be mentioned that by order, dated 24.03.2023, this Court granted the privilege of interim pre-arrest bail to the petitioner Nos. 3, 4, 5 and 6.

A perusal of the statement of the victim girl, recorded under Sections 161 and 164 Cr.P.C., it appears that she has implicated the petitioner Nos. 1 and 2 with the alleged offences. She stated her age to be 15 years. The medical report shows her age to be about 15 years and without any evidence of sexual intercourse/assault. The radiological report shows her age to be 16/17 years.

Having considered the prima facie incriminating materials in the case diary, this Court is of the opinion that the petitioner Nos. 1 and 2 cannot be granted the privilege of pre-arrest bail. Accordingly, their prayer for pre-arrest bail stands **rejected**.

Further, on perusal of the case diary, it is seen that there is no adverse report against the petitioner Nos. 3, 4, 5 and 6 from the I.O. and further as per the interim pre-arrest bail granted earlier, the petitioners appeared before the Investigating Officer and got their statements recorded under Section 161 Cr.P.C. and, as such, this Court is of the view that custodial interrogation of the petitioner Nos. 3, 4, 5 and 6 may not be necessary in the interest of the ongoing investigation into the case.

Accordingly, the interim pre-arrest bail granted vide order, dated 24.03.2023 is hereby made **absolute**, subject to the following conditions-

- (i) That the petitioner Nos. 3, 4, 5 and 6 shall co-operate in investigation as and when required;
- (ii) That the petitioner Nos. 3, 4, 5 and 6 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; and

- (iii) That the petitioner Nos. 3, 4, 5 and 6 shall not hamper or tamper with the investigation in any manner.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant