

GAHC010088812023



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

Case No. : AB/1512/2023

HUSSAIN AHMED AND ANR
S/O LATE ABDUL KARIM
R/O SHIRALIPUR
P.O. LAMAJUAR
P.S. BADARPUR
DIST. KARIMGANJ, ASSAM

2: RASHID AHMED
S/O MAHABBAT ALI
R/O SHIRALIPUR
P.O. LAMAJUAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. JUNM LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

28/06/2023

Heard Ms. J Ghosh, learned counsel for the petitioners and Mr. Bhaskar Sarma, learned Additional Public Prosecutor, Assam for the State.

Mr. A K Talukdar, learned counsel has appeared on behalf of the informant and assisted Mr. Bhaskar Sarma, learned Additional Public Prosecutor, Assam.

The petitioners, namely, **(1) Hussain Ahmed** and **(2) Rashid Ahmed**, have filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending their arrest in **Badarpur P.S. Case No. 106/2023** corresponding to G.R. No. 883/2023 registered under Sections 304/506/34 IPC with added Sections 120(B)/302 IPC.

Perused the case diary placed before the Court today by Mr. Sarma, learned Additional Public Prosecutor, Assam.

The Court by order dated 02.05.2023 granted interim bail to the petitioners, FIR named accused persons in said Badarpur P.S. Case No. 106/2023 while it was under Sections 304/506/34 IPC pursuant to which the petitioners appeared before the Investigating Officer of the case and their statements have also been recorded.

Mr. Sarma, learned Additional Public Prosecutor, Assam, from the case diary submitted that after recording of the statements of the petitioners, during investigation, prima-facie materials were found and on his prayer in terms of the order of the learned Magistrate, Sections 120(B) and 302 IPC have been added in said Badarpur P.S. Case No. 106/2023.

Mr. Sarma, learned Additional Public Prosecutor, Assam submitted that the FIR named accused No. 1, the driver of the vehicle concerned has already been arrested.

From the case diary, Mr. Sarma, learned Additional Public Prosecutor, Assam also submitted that the eye witnesses to the incident implicated both the petitioners clarifying that the offending vehicle initially came in a very slow speed and while approaching the victim who was sitting in the motor cycle, the said vehicle came in a high speed and ran over the said vehicle over the victim.

Mr. Sarma, learned Additional Public Prosecutor, Assam from the case diary further submitted that few days prior to the said incident, the petitioner No. 1 (FIR named accused No. 2) quarreled with the victim and that the petitioner No. 2 (FIR named accused No. 3) threatened of dire consequences to the main eye witness of the case.

Mr. Sarma, from the case diary submitted that the CDR reflects that the petitioner No. 2 was constantly in touch with the driver of the vehicle at the time of the incident and thereafter, the concerned Investigating Officer of the case finding such materials prayed for adding of Sections 120(B) and 302 IPC in the case.

Case diary also reveals that the petitioner No. 1 was earlier charge-sheeted in Badarpur P.S. Case No. 19/2009 under Sections 302/365/201 IPC.

After hearing the learned counsel for the parties and finding sufficient incriminating materials in the case diary against the petitioner with regard to his involvement in the alleged crime, the Court is of the view that it is not a fit case to grant pre-arrest bail to the petitioners, namely, **(1) Hussain Ahmed** and **(2) Rashid Ahmed** in said **Badarpur P.S. Case No. 106/2023** registered under Sections 304/506/34 IPC and added Sections 120(B)/302 IPC.

Accordingly, this pre-arrest bail application of the petitioners, (1) Hussain Ahmed and (2) Rashid Ahmed in said Badarpur P.S. Case No. 106/2023 stands rejected.

The interim pre-arrest bail granted to the petitioners, (1) Hussain Ahmed and (2) Rashid Ahmed earlier on 02.05.2023 in said Badarpur P.S. Case No. 106/2023 is hereby recalled/stands vacated.

Return the case diary.

JUDGE

Comparing Assistant