

GAHC010089332023



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

Case No. : AB/1536/2023

AJAY KUMAR RAY AND 4 ORS
S/O RABINATH ROY
R/O BARUNDANGA
P.S. GOLAKGANJ
DIST. DHUBRI,
PIN-783334

2: RABI NATH RAY
S/O DHANAKUMAR RAY
R/O BARUNDANGA
PS. GOLAKGANJ
DIST. DHUBRI
PIN-783334

3: BINODINI RAY
W/O RABINATH RAY
R/O BARUNDANGA
P.S. GOLAKGANJ
DIST. DHUBRI-783334

4: PINKU RAY
S/O RABINATH ROY
R/O BARUNDANGA
P.S. GOLAKGANJ
DIST. DHUBRI
PIN-783334

5: PULIN RAY
S/O SUKHI RAM RAY
R/O BARUNDANGA
P.S. GOLAKGANJ
DIST. DHUBRI
PIN-783334
PH- 957772646

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR D MEDHI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 30.08.2023

Heard Mr. K. Thakur, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1) *Ajay Kumar Ray*, 2) *Rabi Nath Ray*, 3) *Binodini Ray*, 4) *Pinku Ray* and 5) *Pulin Ray*, who were apprehending their arrest in connection with Golakganj P.S. Case No.186/2023 under Sections 417/ 376/ 34 of the IPC.

The accusation in this case is that on 07.04.2023, the victim lodged an FIR before Officer-in-Charge of Golakganj Police Station, *inter alia*, alleging that the petitioner No. 1, namely, *Ajay Kumar Ray* with whom she was having love affairs since four years have subjected to forcible sexual inter-course on 03.04.2023 and when she visited the house of the first informant, the other petitioners have abused her. On receipt of the said FIR Golakganj P.S. Case No.186/2023 was registered.

Learned counsel for the petitioners has submitted that the petitioner Nos.

2, 3, 4 and 5 were granted interim anticipatory bail by this Court by its order dated 03.05.2023 and in pursuant to the said order, the said accused persons have already appeared before the Investigating Officer of Golakganj P.S. Case No.186/2023. The learned counsel for the petitioners has also stated that the allegation leveled against the petitioner No. 1 in the FIR is false.

On the other hand, learned Additional Public Prosecutor has produced the case diary which was called for in connection with this case including the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure, 1973 and has submitted that there are incriminating materials against the present petitioner No. 1 and on that ground he has opposed the grant of anticipatory bail to the petitioner No. 1. However, as regards the other petitioners, he does not oppose the prayer for bail.

Considering the submissions made by learned counsel for the parties and considering the materials available before this Court, the interim anticipatory bail granted to the petitioner Nos. 2, 3, 4 and 5, namely, *Rabi Nath Ray, Binodini Ray, Pinku Ray and Pulin Ray* respectively by order dated 03.05.2023 is hereby made absolute with condition Nos. 2, 3 and 4 attached to the said order remaining intact. However, as regards the petitioner No. 1, namely, *Ajay Kumar Ray* as there are incriminating materials against the said petitioner in the case diary, this Court is considering opinion that this is not a fit case for grant of anticipatory bail to the petitioner No. 1 i.e. *Ajay Kumar Ray*, therefore, the prayer for grant of anticipatory bail to petitioner No. 1 is rejected and this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant