

GAHC010090372023



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

Case No. : AB/1594/2023

SALEHA KHATUN AND 6 ORS
W/O HAFIZUR RAHMAN
R/O VILL-DUMURIA PART-I, P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON, ASSAM
PIN-783384

2: JOYFUL NESSA @ FUL KHATUN
W/O KASHEM ALI
R/O VILL-DUMURIA PART-I
P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-783384

3: KASHEM ALI
S/O HAFIZUR RAHMAN
R/O VILL-DUMURIA PART-I
P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-783384

4: SULTAN MAMUD
S/O HAFIZUR RAHMAN
R/O VILL-DUMURIA PART-I
P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-783384

5: HAFIZUR RAHMAN
S/O ABDUR RAHIM
R/O VILL-DUMURIA PART-I
P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-783384

6: ABDUS SAMAD
S/O HAFIZUR RAHMAN
R/O VILL-DUMURIA PART-I
P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-783384

7: SAJAHAN ALI
S/O HAFIZUR RAHMAN
R/O VILL-DUMURIA PART-I
P.O. PIRADHARA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM
PIN-78338

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS. B GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

07.08.2023

Heard Mrs B Gogoi, learned counsel appearing for the petitioner and Ms S H Bora,

learned Additional Public Prosecutor for the State of Assam.

2. By this application filed under Section 438 CrPC, the petitioners, 1) Saleha Khatun, 2) Joyful Nessa @ Ful Khatun, 3) Kashem Ali, 4) Sultan Mamud, 5) Hafizur Rahman, 6) Abdus Samad, and 7) Sajahan Ali, have sought for pre-arrest bail, apprehending their arrest in connection with Abhayapuri PS Case No. 129/2023, registered under Sections 302/34 IPC.

3. Learned counsel for the petitioners has submitted on behalf of the petitioner No. 1, Saleha Khatun and petitioner No. 5, Hafizur Rahman that after granting of interim bail by this Court on 08.05.2023, both the petitioners have appeared before the Investigating Officer and their statements have also been recorded and they have also cooperated with the investigation of the case. Accordingly, she has prayed that the interim bail granted to the petitioner No. 1, Saleha Khatun and petitioner No. 5, Hafizur Rahman on 08.05.2023, may be made absolute.

4. On the other hand, learned Additional Public Prosecutor submits that the petitioner No. 1, Saleha Khatun and petitioner No. 5, Hafizur Rahman have not misused their liberty after grant of the interim bail on 08.05.2023. Accordingly, she has raised no objection to the prayer made on behalf of petitioner Nos. 1 and 5.

5. So far as regards the petitioner Nos. 2, 3, 4, 6 and 7, , it is submitted by the learned counsel for the petitioners that they are no way involved in the case. So, learned counsel submits that the privilege of pre-arrest bail may be extended to the petitioner.

6. On the other hand, referring to the note submitted by the Investigating Officer, along with the Case Diary, learned Additional Public Prosecutor submits that there are no materials against the present petitioners and all the allegations are against the accused Hasem Ali, who is the husband of the deceased. Accordingly, she has made no objection to the prayer made by the petitioners.

6. I have heard the submissions made by the learned counsel for both the parties. Also

perused the Case Diary along with the note of the Investigating Officer.

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 the interim bail order dated 08.05.2023, can be made absolute.

8. Accordingly, interim bail granted to the petitioner No. 1, Saleha Khatun and petitioner No. 5. Hafizur Rahman, on 08.05.2023, is hereby made absolute.

9. However, considering the submissions of the learned counsel for the parties as well as the note given by the Investigating Officer, this Court is of the opinion that the privilege of pre-arrest bail may be extended to the petitioner Nos. 2) Joyful Nessa @ Ful Khatun, 3) Kashem Ali, 4) Sultan Mamud, 6) Abdus Samad, and 7) Sajahan Ali, Accordingly, it is hereby directed that in the event of arrest in connection with the aforesaid PS Case, the petitioners, named above, shall be released on pre-arrest bail on executing a bond of Rs. 10,000/- (Rupees Ten Thousand) each, with one surety each of the like amount to the satisfaction of the arresting authority. The above privilege of pre-arrest bail is, however, subject to the following conditions:

(i) the petitioners are directed to appear before the Investigating Officer within a period of 10 (ten) days from today.

(ii) that the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;

(iii) that the petitioner 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 shall not leave the jurisdiction of the Court of learned SDJM (M), Abhayapuri, without his prior permission. 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.

10. With the aforesaid observations, this Anticipatory Bail Application stands disposed of.
11. Send back the Case Diary.

JUDGE

Comparing Assistant