

GAHC010106242023



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

Case No. : AB/1741/2023

AKRAM ALI AND 2 ORS
S/O ANOWAR HUSSAIN
R/O SANIADI
P.S. HAJO
DIST. KAMRUP, ASSAM

2: ANOWAR HUSSAIN
AZAD
S/O KALIMUDDIN AHMED
R/O SANIADI
P.S. HAJO
DIST. KAMRUP
ASSAM

3: AKHTAR HUSSAIN
S/O ANOWAR HUSSAIN
R/O SANIADI
P.S. HAJO
DIST. KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

31-05-2023

Heard Mr. S.M. Abdullah P, learned counsel for the petitioners. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam. None appears for the informant on call.

This Anticipatory Bail petition has been filed by the petitioners, namely, 1) Akram Ali, 2) Anowar Hussain and 3) Akhtar Hussain, who are apprehending their arrest in connection with Hajo Police Station Case No.200/2023 registered under Sections 326/307/ 34 of the IPC.

By the FIR dated 21.03.2023 lodged by the informant one Safiqur Rahman, it was alleged that the persons named in the FIR had attacked the informant and his brother with *Dao, Lathi* etc, as a result of which, they sustained grievous injuries and because of this attack, the informant's brother had to refer to Gauhati Medical College and Hospital from Hajo Medical. The said FIR was received and registered as Hajo Police Station Case No.200/2023 under Sections 326/307/ 34 of the IPC.

Learned counsel for the petitioners submits that there is a boundary dispute existing between the petitioner no.2's house and the house of the informant. Although a quarrel took place between them, however, the allegations made in the FIR that assault was caused by the petitioners causing injuries on the person of the informant and his brother is incorrect and is a false acquisition.

This Court by orders dated 18.05.2023 and 26.05.2023 had called for the

case diary and the learned Additional Public Prosecutor has produced the same today.

Case diary has been carefully perused.

The injury report reveals that the informant and the brother of the informant had sustained various injuries and one of them stated to be grievous in nature. Upon perusal of the statement of the witnesses, it appears that there is a dispute between the persons concerned and some physical altercation took place between the petitioners and the informant. The medical report does not give any information as regards the nature of the weapon used for causing grievous injuries.

Further, the informant has filed a written objection on 25.05.2023, objecting to the grant of bail to the petitioner. However, today when the matter is called for, no one has entered appearance on behalf of the informant. The objection filed by the informant is also carefully perused. The allegations made in the FIR have been reiterated in the objection filed by the informant.

Considering all of the above, this Court is of the view that since the investigation is undergoing and certain incriminating materials are available in the case diary in respect of the petitioner no.2, namely, Anowar Hussain, this Court rejects the prayer for anticipatory bail in respect of the petitioner no.2 at this stage.

However, this Court does not find any incriminating materials in the case diary against the petitioners no. 1 & 3 and accordingly, this Court grants anticipatory bail to the petitioners no. 1 & 3.

Accordingly, it is provided that in the event of arrest of the petitioners no. 1) Akram Ali & 3) Akhtar Hussain, named above, in connection with the above

noted case, they shall be released on pre-arrest bail upon furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with 1 (one) local surety of like amount to the satisfaction of the arresting authority, subject, of course to the following conditions:

- (i) That the petitioners no. 1 & 3 shall appear before the Investigating Officer within 10 (ten) days from today;
- (ii) That the petitioners no. 1 & 3 shall not hamper or tamper with the investigation in any manner;
- (iii) That the petitioners no. 1 & 3 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 office; and
- (iv) That the petitioners no. 1 & 3 shall not leave the jurisdiction of Hajo Police Station without obtaining prior written permission from the concerned Investigating Officer of the case.

In the event, the petitioners no. 1 & 3 are found to have violated any of the above conditions or are found to be involved in other offences, the Investigating Officer shall be at liberty to apply for recall/cancellation of the interim bail granted to the petitioners no. 1 & 3.

The anticipatory bail application stands disposed of.

Return the case diary.

JUDGE

Comparing Assistant