

GAHC010112002023



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

Case No. : AB/1864/2023

ABU HANIFA AND 4 ORS
S/O HARUN RASHID
R/O SATIANTALI, P.S. LAHARIGHAT
DIST. MORIGAON, ASSAM

2: HARUN RASHID
S/O ABDUL MAJID
R/O SATIANTALI

P.S. LAHARIGHAT

DIST. MORIGAON
ASSAM

3: HANUFA KHATUN
W/O HARUN RASHID

R/O SATIANTALI
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM

4: WAHIDUL ISLAM
S/O SEREK ALI
R/O BARBARI

P.S. LAHARIGHAT

DIST. MORIGAON
ASSAM

5: SAJIDA KHATUN @ UMME SABIBA BEGUM
W/O WAHIDUL ISLAM
R/O BARBARI

P.S. LAHARIGHAT

DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. S HUDA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 21-06-2023

Heard Mr. N. Haque, learned counsel for the petitioners. Also heard Mr K. K. Das, learned Addl. P.P., Assam

By this application under Section 438 of Cr.P.C. the petitioners, namely 1. Abu Hanifa, 2. Harun Rashid, 3. Hanufa Khatun, 4. Wahidul Islam and 5. Sajida Khatun @ Umme Sabiba Begum have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest in connection with Laharighat P.S Case No. 19/2023 u/s 365/368 IPC.

The allegation against the petitioner is that on 27.1.2023 at midnight when the victim "X" came out of her house to answer nature's call the petitioner No. 1 kidnapped her, alluring her to go with him. After a frantic search, the informant learnt that the petitioner Nos. 4 and 5 are also involved in the incident of kidnapping of the minor daughter of the informant.

I have considered the submissions at the Bar.

The petitioners who are on interim bail, i.e. petitioner Nos. 3, 4 and 5 have appeared before the Investigating Officer of the case and they have cooperated with the investigation.

It is submitted on behalf of petitioner No. 1 that the victim had love affair with the petitioner No.1.

Learned Addl. P.P. has raised objection stating that the statement of the victim u/s 164 Cr.P.C. incriminates the petitioner and the victim is a minor girl aged about 16 years and six months.

I have scrutinised the case diary and I have considered the bail petition with circumspection

As the petitioners No. 3,4 and 5 have not violated bail conditions and as their statement have already been recorded by the I.O, the interim order dated 29.5.2023 is hereby made absolute.

The case diary reveals that investigation has progressed to a considerable extent. The petitioner No.2, Harun Rashid has earlier criminal antecedent in connection with Laharighat P. S. Case No. 21/2023 u/s 376 IPC read with Section 8 of POCSO Act. Therefore pre-arrest bail prayer of petitioner No.2, Harun Rashid is rejected at this stage of investigation.

In the event of arrest, the petitioner No.1, namely, Abu Hanifa, he shall be enlarged on bail of Rs. 50,000/- with suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:

1. The petitioner No.1 will appear before the IO within ten days from today and cooperate with the investigation;
2. The petitioner will not tamper with the evidence and exercise threats

to witnesses; and

3. The petitioner will not leave the jurisdiction of the Court without prior permission, till completion of investigation.

Send back the Case diary.

JUDGE

Comparing Assistant