

GAHC010122762023



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

Case No. : AB/2044/2023

FAJIR UDDIN @ FOJIR AND 2 ORS
S/O- SURAJ ALI, A R/O- MOHANPUR, P.S. RK NAGAR, DIST.- KARIMGANJ,
ASSAM, PIN- 788166

2: BADARUL HAQUE @ BADRUL
S/O- APTAB UDDIN @ AFTAB
A R/O- MOHANPUR
P.S. RK NAGAR
DIST.- KARIMGANJ
ASSAM
PIN- 788166

3: ASAR UDDIN @ ASHAR
S/O- APTAB UDDIN @ AFTAB
A R/O- MOHANPUR
P.S. RK NAGAR
DIST.- KARIMGANJ
ASSAM
PIN- 78816

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. A S TAPADER

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

21-06-2023

Heard Mr. A. S. Tapader, learned counsel for the petitioners and Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 438 CrPC, the petitioners, namely, **1) Fajir Uddin @ Fojir, 2) Badarul Haque @ Badrul** and **3) Asar Uddain @ Ashar** apprehending their arrest are seeking pre-arrest bail in Ratabari P.S. Case No.114/2023 registered under Sections 341/326/34 IPC read with Section 25 (1-A) of the Arms Act corresponding to G.R. No. 940/2023.

As per the FIR of the case, on 25.04.2023, the brother of the informant was shot by a gun by the FIR named accused persons, while he was proceeding towards his house as the accused persons have some past dispute against the victim. Accordingly, Ratabari P.S. Case No.114/2023 under Sections 341/326/34 IPC read with Section 25 (1-A) of the Arms Act was registered.

Police found the victim lying on the road and sent him to R. K. Nagar Medical College and Hospital for treatment.

It is seen from the case diary that the victim was shot at by a homemade gun.

Police could apprehend three of the accused persons namely, Jamal Uddin @ Batul, Nasir Uddin and Abdul Salam @ Salam Uddin, FIR named accused person involved in the case and out of that the accused Jamal Uddin @ Batul shot the victim by his home made gun and that threw it in the jungle while returning home seeing police and CRPF personnel on the road.

Case diary reveals that the accused Jamal Uddin @ Batul told the present petitioner and few others about his grievances against the victim Motahir Ali and called them to the house of Nasir Uddin and the petitioner along with other accused persons gathered in the house of Nasir Uddin and while, Motahir Ali crossed them towards his house, the petitioner along with

others obstructed said Motahir Ali and then, the accused Jamal Uddin @ Batul shot said Motahir Ali with his home made gun.

There are sufficient incriminating materials in the case diary regarding involvement of the petitioners on the basis of which said accused Jamal Uddin @ Batul shot the victim Motahir Ali as all these people had grievances against the victim Motahir Ali and his brother Anowar Ali.

Finding sufficient incriminating materials in the case diary against the petitioners regarding their 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) Fajir Uddin @ Fojir, 2) Badarul Haque @ Badrul** and **3) Asar Uddain @ Ashar** in said Ratabari P.S. Case No.114/2023.

Accordingly, this pre-arrest bail application of the petitioners, namely, **1) Fajir Uddin @ Fojir, 2) Badarul Haque @ Badrul** and **3) Asar Uddain @ Ashar** in said Ratabari P.S. Case No.114/2023 stands rejected.

Return the case diary herewith.

JUDGE

Comparing Assistant