

GAHC010130812023



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

Case No. : AB/2132/2023

NURJAHAN AND 4 ORS
W/O LT. KADER ALI
R/O VILL- PAHARPUR KATULI,
P.O.HABIDONGRA BAZAR,
P.S. BAGHBAR, DIST. BARPETA, ASSAM, PIN-781308

2: MUKADDES ALI @ BUDDHA
S/O LT. KADER ALI
R/O VILL- PAHARPUR KATULI
P.O. HABIDONGRA BAZAR

P.S. BAGHBAR
DIST. BARPETA
ASSAM PIN-781308

3: ATOWAR ALI
S/O ABBAS ALI
R/O VILL- PAHARPUR KATULI
P.O. HABIDONGRA BAZAR
P.S. BAGHBAR
DIST. BARPETA
ASSAM PIN-781308

4: SARAF ALI
S/O ABBAS ALI
R/O VILL- PAHARPUR KATULI
P.O. HABIDONGRA BAZAR

P.S. BAGHBAR
DIST. BARPETA
ASSAM PIN-781308

5: KISMAT ALI
S/OLT. DAROG ALI

R/O VILL- GOPALPUR
P.S. BAGHBAR DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

26/06/2023

Heard Mr. I H Saikia, learned counsel for the petitioners and Mr. P S Lahkar, learned Additional Public Prosecutor, Assam for the State.

The petitioners, namely, **(1) Nurjahan, (2) Mukaddes Ali @ Buddha, (3) Atowar Ali, (4) Saraf Ali and (5) Kismat Ali**, have filed this application under Section 438 Cr.P.C. seeking pre-arrest bail apprehending their arrest in **Baghbar P.S. Case No. 35/2023** registered under Sections 120(B)/365 IPC.

Perused the case diary placed before the Court today by Mr. Lahkar, learned Additional Public Prosecutor, Assam.

As per the FIR of the case lodged on 21.05.2023 that the petitioner No. 1 forcefully kidnapped the minor daughter of the informant on 06.05.2023 in the morning while she was going to school wearing school uniform, who was studying in Bamundangra Higher Secondary School and since then his minor daughter could not be recovered. Though, on 08.05.2023, an Ejahar was lodged before the Baghbar Police Station relating to missing of his minor daughter, but subsequently, the complainant came to know that the FIR named accused No. 2/petitioner No. 3 herein by his motor cycle with the help of FIR named accused No. 3/petitioner No. 4 herein, who are brothers, kidnapped his daughter. Though, he approached the FIR named accused Nos. 4 & 5, petitioner No. 2 & 5 herein, they did not informed him about his daughter rather forced him and sent him back. As such, the informant complainant lodged the FIR before the Superintendent of Police, District-Barpeta, Barpeta to find out

his missing daughter who was forcefully kidnapped by the accused persons.

From the case diary, it is seen that since the daughter of the complainant was forcefully taken away by the petitioner Nos. 3 & 4, no one from their family has been seen in the same village. Police also tried their best to locate the minor daughter of the complainant, but till date, she could not be traced out.

Case diary reveals that the petitioners are involved in various criminal activities and there is every possibility that the minor victim might have been sold to someone outside the State.

Case diary also reveals that since 08.05.2023, Baghbar Police informed all the Police Stations in the State of Assam about missing of the minor daughter of the complainant, but as per the last entry in the case diary dated 21.06.2023, no one could provide any information about the whereabouts of the minor daughter of the complainant.

Further, the case diary also reveals that the petitioners are evading arrest and no materials are available before the police. The victim girl is a minor of 14 years old and is studying in Class-VI, who is missing since 06.05.2013 and could not be recovered till date.

Considering the materials available in the case diary against the petitioners with regard to their involvement in the alleged crime, the Court is not inclined to grant pre-arrest bail to the petitioners, named above, in said Baghbar P.S. Case No. 35/2023.

Accordingly, this pre-arrest bail application of the petitioners, **(1) Nurjahan, (2) Mukaddes Ali @ Buddha, (3) Atowar Ali, (4) Saraf Ali and (5) Kismat Ali** in said **Baghbar P.S. Case No. 35/2023** stands rejected.

Return the case diary.

JUDGE

Comparing Assistant