

GAHC010152192023



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

Case No. : AB/2442/2023

KIRAMOT SK @ KERAMOT HUSSAIN AND 2 ORS
S/O SAHIJAL HOQUE @ SAYJAL HOQUE
R/O VILL- SOUTH BANGTIMARI, P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR, ASSAM
PIN-783135

2: NOWAB ALI @ NABAB ALOM
S/O SAHIJAL HOQUE @ SAYJAL HOQUE
R/O VILL- SOUTH BANGTIMARI
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135

3: SAHIJAL HOQUE @ SAYJAL HOQUE
S/O LT. OSMAN ALI
R/O VILL- SOUTH BANGTIMARI
P.S. MANKACHAR
DIST. SOUTH SALMARA MANKACHAR
ASSAM
PIN-78313

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR K K MAHANTA (Sr. Advocate)

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 27.07.2023

Heard Mr. K. H. Saikia, learned counsel appearing for the petitioners. Also Heard Mr. B. Sarma, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **1. Kiramot Sk. @ Keramot Hussain, 2. Nowab Ali @ Nabab Alom, 3. Sahijal Hoque @ Sayjal Hoque**, apprehending arrest in connection with **Mankachar P.S. Case No. 266/2023** registered u/s **366(A)/376/342/ 323/354/34** of the IPC, r/w Section **4** of the POCSO Act.

The Case diary, as called for, is placed before the Court.

The FIR reveals the allegation that on 12.06.2023 at about 9 PM, the petitioner No. 1 took the informant's sister, aged about 15 years 5 months, to his house and committed rape. It is also alleged that while the informant came to know about the incident, he rescued his sister from the house of the petitioner No. 1 and at that time, the petitioner Nos. 2 and 3 assaulted his sister and outraged her modesty.

Perusal of the case diary reveals prima facie incriminating material against the petitioner No.1. Accordingly, his prayer for pre-arrest bail stands **rejected**.

So far the pre-arrest bail application of the petitioner No. 2 is concerned, this Court though finds scanty evidence against him, but in the backdrop of facts and evidence available on the case diary, his custodial interrogation in the interest of investigation may not be necessary.

Accordingly, it is provided that in the event of arrest, the petitioner No. 2, named above, shall be released on pre-arrest bail, in connection with the above noted

case on furnishing bail bond of **Rs. 30,000/-** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioner No. 2 shall appear before the Investigating Officer within 7 days, failing which on and from the 8th day, this pre-arrest bail order shall have no force; and
- (ii) That the petitioner No. 2 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.

Furthermore, on perusal of the case diary, it is seen that the petitioner No. 3 has appeared and given his statement before the I.O. and there is no adverse report against him, and, as such, this Court is of the view that his custodial interrogation may not be necessary in the interest of investigation in the case.

Therefore, the interim pre-arrest bail granted, vide order, dated 13.07.2023 is hereby made **absolute**, subject to the condition that the petitioner No. 3 shall co-operate in investigation as and when required.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant