

GAHC010153292023



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

Case No. : AB/2494/2023

ABUL KALAM @ ABU KALAM AND ANR
S/O LATE NASIM UDDIN
VILL- PUB- MAHCHARA
P.O. AND P.S. KACHUMARA
DIST. KAMRUP, ASSAM
PIN-781302

2: SAHJAMAL HOQUE @ SHAH ANAL HOQUE
S/O LATE RAHIM BAKSHA
VILL- KAHUMARA
P.O. AND P.S. KACHUMARA
DIST. KAMRUP
ASSAM
PIN-78130

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A MOBARAQUE

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 17.08.2023

Heard Mr. A. Mobaraque, learned counsel for the petitioners. Also heard Mr. R.R. Koushik, learned APP appearing for the State.

2. Apprehending arrest in connection with Boko P.S. Case No. 292/2023 under sections 341/307/326/34 IPC (corresponding to G.R. No. 295(K)/23), the petitioner has filed this application under section 438 Cr.P.C.

3. The learned APP has produced the case diary and has opposed the prayer for bail.

4. According to the allegations made in the FIR, the informant was assaulted by two persons and the petitioner no.2 has allegedly stabbed the informant in his left hand with a *dagger* and it is projected that the informant fell down in the water and the petitioners have fled away. The informant was recovered by some persons and took him to hospital and stitch has to be made in his left hand.

5. The case diary does not contain any note of the I/O that he had taken the informant for medical examination or he had taken any steps to call for the injury report from the hospital where the informant had taken treatment. There is also no note as to the steps taken by the I/O for recovery of the motorcycle of the informant from the road.

6. Accordingly, the Court finds that there are certain missing links in the prosecution case.

7. In view of above, the Court is inclined to grant pre-arrest bail to the petitioners by providing that in the event of the arrest of the petitioners, namely, (1) Abul Kalam @ Abu Kalam, and (2) Sahjamal Hoque in connection with the aforesaid case, they shall be released on bail on furnishing bail bond of Rs.25,000/- each with one suitable surety of like amount to the satisfaction of the arresting officer.

8. The pre-arrest bail is granted on the following conditions:

I. The petitioners shall make themselves available to the police or any other investigating agency or Court in the present case as and when required.

II. The petitioners 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 Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.

III. The petitioners shall not obstruct the smooth progress of the investigation/trial.

IV. The petitioners shall not misuse their liberty in any manner.

V. The petitioners shall appear before the I/O within 15 (fifteen) days from today and they shall continue to appear once in every month till their personal appearance is dispensed with or charge-sheet is filed, whichever is earlier.

9. Application stands disposed of.

10. Case diary is returned.

JUDGE

Comparing Assistant