

GAHC010153702023



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

Case No. : AB/2483/2023

SAFIUL ISLAM AND 6 ORS
S/O- ABDUL ABDUL HAMID,
R/O- VILLAGE FULERCHAR PART III,
P.S- SUKCHAR,
DIST- SOUTH SALMARA MANKACHAR, PIN-783135

2: ROFIQUL ISLAM
S/O- LATE SONAULLAH SK

R/O- VILLAGE FULERCHAR PART III

P.S- SUKCHAR

DIST- SOUTH SALMARA MANKACHAR
PIN-783135

3: SOKER MASTER
S/O- LATE JOMSHER SK

R/O- VILLAGE FULERCHAR PART III

P.S- SUKCHAR

DIST- SOUTH SALMARA MANKACHAR
PIN-783135

4: SAIFUL HOQUE
S/O- LATE SONAULLAH SK

R/O- VILLAGE FULERCHAR PART III

P.S- SUKCHAR

DIST- SOUTH SALMARA MANKACHAR

PIN-783135
5: REJAUL HAQUE
S/O- LATE SONAULLAH SK
R/O- VILLAGE FULERCHAR PART III
P.S- SUKCHAR
DIST- SOUTH SALMARA MANKACHAR, PIN-783135

6: SANOWAR SK
S/O- SOKER ALI
R/O- VILLAGE FULERCHAR PART III, P.S- SUKCHAR
DIST- SOUTH SALMARA MANKACHAR
PIN-783135
7: KHALEK SK
S/O- SOKER ALI
R/O- VILLAGE FULERCHAR PART III
P.S- SUKCHAR
DIST- SOUTH SALMARA MANKACHAR
PIN-78313

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M A ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 21-08-2023

Heard Mr. M. A. Islam, learned counsel for the applicant and also heard Mr. R. R. Kaushik, learned Addl. P.P. for the State respondent.
Apprehending arrest in connection with Sukchar P.S. Case No. 170/2023, under Sections 143/341/326/307/325/506 IPC this application under Section 438 Cr.P.C. is preferred by the applicants, namely, 1. Safiul Islam, 2 Rofiqul Islam, 3.

Soker Master, 4. Saiful Hoque, 5. Rejaul Hoque, 6. Sonowar Sk and 7. Khalek Sk, for grant of pre-arrest bail.

The essence of allegation against the applicants, made in the FIR dated 1.7.2023 lodged by one Asraf Ali is that on 1.7.2023, at about 3 PM his son went to the market and then the accused person attacked him on the road being armed with sharp object and lathi and injured him seriously over his back.

Mr. Islam learned counsel for the applicants submits that the applicants are innocent and no way involved with the offence alleged in the FIR and that a cross case was also lodged against the informant, upon which South Salmara P.S. Case No. 191/2023 u/s 147 /148/ 341 /325 /326 /506/ 379 IPC was registered and investigation is being carried out. Mr. Islam learned counsel further submits that as per his instruction, the injured received minor injuries caused by key of a motor cycle and no sharp object was used in causing the same and that the applicants are ready to cooperate with the investigating agency and therefore it is contended to allow the petition.

On the other hand, Mr. R. R. Kaushik, learned Addl. P.P. has produced the case diary before this Court and submits that as per injury report the victim suffered injury over his back, cause by sharp object and it was a lacerated injury and that the Investigating Officer has collected materials to show complicity of the applicants with the offence alleged in the FIR, and therefore, Mr. Kaushik, learned Addl. P.P. has contended to dismiss the petition.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Kaushik, learned Addl. P.P.

The injury report available in the case diary, reveals that the injury sustained by

the victim over his back is a lacerated injury caused by sharp object. But the nature of injury has not been mentioned therein as to whether it was a grievous injury or simple injury.

However, having regards to above and also having regards to the materials collected so far in the case diary, and also considering the progress of investigation, custodial interrogation of the applicants seems to be not warranted herein this case and therefore, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicants, in connection with Sukchar P.S. Case No. 170/2023 under Sections 143 /341 /326/ 307/ 325/ 506, they shall be released on pre arrest bail on their executing a bond of Rs.50,000/ each with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicants shall make himself available for interrogation by the Investigating Officer as and when required;
2. That the applicant 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; and
3. That the applicants shall not leave the jurisdiction of the learned CJM, South Salmara, Mancachar, without prior permission.

In terms of above, this A.B stands disposed of .

Case diary be returned.

JUDGE

Comparing Assistant