

GAHC010159192023



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

Case No. : AB/2559/2023

DWIPAN DEY AND 2 ORS.
S/O LATE SUDHIR DEY
R/O VILL- PUB BARIPARA
P.S. MANIKPUR,
DIST. BONGAIGAON, ASSAM
2: BABUL DEY
S/O DWIPAN DEY
R/O VILL- PUB BARIPARA
P.S. MANIKPUR

DIST. BONGAIGAON
ASSAM
3: PRADIP DEY
S/O DWIPAN DEY
R/O VILL- PUB BARIPARA
P.S. MANIKPUR
DIST. BONGAIGAON ASSAM
VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

09.08.2023

Heard Mr M Khan, learned counsel for the petitioner. Also heard Mr K K Das, learned Additional Public Prosecutor for the State of Assam.

2. This bail application under Section 438 of the Code of Criminal Procedure, 1973, has been preferred by petitioner Nos. 1) Dwipan Dey, 2) Babul Dey and 3) Pradip Dey, who are apprehending their arrest in connection with Manikpur PS Case No. 126/2023, under Sections 294/307/325/34 IPC.

3. The accusation in this case is that on 16.07.2023, one Menaka Dey lodged the FIR before the Officer-In-Charge of Manikpur Police Station, *inter alia*, alleging that on that day, at about 05:30 PM, the accused persons named in the FIR had altercation with her husband and later on, they started assaulting her husband with bamboo stick, causing grievous injuries on his person. The victim was immediately shifted to Barpeta Civil Hospital, where he was treated. It is stated in the FIR that the condition of the victim was serious.

4. On receipt of the FIR, Manikpur PS Case No. 126/2023 was registered under Sections 294/307/325/34 IPC.

5. Learned counsel for the petitioners submits that there was in fact, some altercation between the petitioners and the first informant. However, he denies that the petitioners have caused any grievous injuries to the victim, i.e., the first informant of the case. The altercation took place on 16.07.2023, as on the earlier date also, there was some altercation between the petitioner and the victim, i.e., the husband of the first informant. Learned counsel for the petitioners submits that the petitioners are ready to cooperate with the Investigating Officer and as such, they may be given protection of Section 438 CrPC.

6. On the other hand, learned Additional Public Prosecutor has produced the Case Diary of Manikpur PS Case No. 126/2023, which was called for in this case and after perusal of the Case Diary, submits that there are incriminating materials against the present petitioners in the Case Diary. He fairly submits that though the injury report, which has been collected by the Investigating Officer shows that the injury found on the person of the victim are simple in nature, however, there is a suggestion that the final assessment can be made only after obtaining the CT Scan Report of the victim.

7. I have considered the submissions made by the learned counsel for both the sides and have also perused the Case Diary, including the injury report of the victim.

8. It appears from the perusal of the Case Diary that the Investigating Officer has recorded the statements of the witnesses including the victim and on perusal of the statement of the victim as well as the injury report, which shows that the victim has sustained simple injury only, this Court is of the considered opinion that if the petitioners cooperate with the Investigating Officer of Manikpur PS Case No. 126/2023, their custodial interrogation may not be necessary for fair completion of the investigation of the case. Hence, the petitioner Nos. 1) Dwipan Dey, 2) Babul Dey and 3) Pradip Dey, are hereby directed to appear before the Investigating Officer of Manikpur PS Case No. 126/2023, within a period of 10 (ten) days from today and cooperate with the Investigating Officer. If they do so within the stipulated period of time, in the event of their arrest in connection with Manikpur PS Case No. 126/2023, they shall be allowed to go on bail of Rs. 30,000/- each, with one surety each of the like amount to the satisfaction of the arresting authority, subject to the following conditions:-

- 1) They shall cooperate with the Investigating Officer of the said case.
- 2) They 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 Investigating Officer or to the Court.

9. With the above observations, this Anticipatory Bail Application stands disposed of.

10. Send back the Case Diary.

JUDGE

Comparing Assistant