

GAHC010164012023



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

Case No. : AB/2616/2023

KAMAL HUSSAIN LASKAR AND ANR
S/O- LATE MOKADDAS ALI LASKAR, VILL.- BOALIPAR PT-I, P.S. AND DIST.
HAILAKANDI, ASSAM

2: SOFIK UDDIN LASKAR
S/O- LATE MOKADDAS ALI LASKAR
VILL.- BOALIPAR PT-I
P.S. AND DIST. HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

25.08.2023

Heard Mr. A.M. Barbhuiya, learned counsel for the applicants and also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam, appearing for the State

respondent.

2. This application, under Section 438 Cr.P.C., is preferred by the applicants, namely, Kamal Hussain Laskar and Sofik Uddin Laskar, who have been apprehending arrest in connection with Hailakandi P.S. Case No.125/2023, under Sections 341/326/307/34 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Hifzur Rahman Laskar on 11.06.2023. The essence of allegation made in the FIR is that on 09.06.2023 at about 1:30 p.m. his father Jalal Uddin Laskar was returning home after performing Namaz. Then one Kamal Hussain Laskar and Sofik Uddin Laskar wrongfully restrained him on the PWD road and assaulted him by means of deadly weapon and injured him seriously.

4. Mr. Barbhuiya, learned counsel for the applicants submits that the informant and the applicants belongs to the same family and that a quarrel took place between both the parties and both the parties have filed FIR against each other and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. Whereas Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court along with the injury report of the victim and submits that the injuries suffered by the victim are serious in nature, but the nature of weapon could not be ascertained.

6. 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. Goswami, learned Additional P.P.

7. In view of the materials collected so far in the case diary as well as the nature of injuries sustained by the victim and also the progress of investigation, custodial interrogation of the applicants seems to be not warranted here in this case and accordingly, this Court is inclined to allow this petition.

8. It is provided that in the event of arrest of the applicants, namely, Kamal Hussain Laskar and Sofik Uddin Laskar, in connection with Hailakandi P.S. Case No.125/2023, under Sections 341/326/307/34 IPC, they shall be enlarged on pre-arrest bail on

furnishing a bail bond of ₹ 50,000/- each, with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make himself available for interrogation by the Investigating Officer as and when required;
 - (ii) 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
 - (iii) The applicant shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Hailakandi, without prior permission.
9. In terms of above, this anticipatory bail application stands disposed of.
10. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant