

GAHC010168112023



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

Case No. : AB/2762/2023

MD. JILLUL HOQUE AND 7 ORS
S/O LATE ABDUL MANNAN
R/O VILL- PANIKHAITI
P.S. ROWTA
DIST. UDALGURI, BTR, ASSAM

2: MD. MAINUL HOQUE
S/O LATE ABDUL MANNAN
R/O VILL- PANIKHAITI
P.S. ROWTA
DIST. UDALGURI
BTR
ASSAM

3: MD. WAIDUR HOQUE @ MD. WAIDUR RAHMAN
S/O DILOWAR HUSSAIN
R/O VILL- PANIKHAITI
P.S. ROWTA
DIST. UDALGURI
BTR
ASSAM

4: HABEJ ALI
S/O LATE ABDUL GONI
R/O VILL- PANIKHAITI
P.S. ROWTA
DIST. UDALGURI
BTR
ASSAM

5: MD. MUSSABBIR HOQUE @ AZIZ MUSSABIR
S/O HABEJ ALI
R/O VILL- PANIKHAITI
P.S. ROWTA

DIST. UDALGURI
BTR
ASSAM

6: MD. HARMUJ ALI
S/O HABEJ ALI
R/O VILL- PANIKHAITI
P.S. ROWTA
DIST. UDALGURI
BTR
ASSAM

7: MD. ABDUS SALAM @ MD. ABDUL SALAM
S/O LATE ABDUL GONI
R/O VILL- PANIKHAITI
P.S. ROWTA
DIST. UDALGURI
BTR
ASSAM

8: MD. RAFIQUUL ISLAM
S/O ABDUL SALAM
R/O VILL- PANIKHAITI
P.S. ROWTA
DIST. UDALGURI
BTR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : TUN RAJKHOWA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

25.08.2023

Heard Ms. T. Rajkhowa, learned counsel for the applicants. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State respondent.

Apprehending arrest in connection with Rowta P.S. Case No. 128/2023, under Sections 147/148/447/325/307 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by eight applicants, namely, 1. Md. Jillul Hoque, 2. Md. Mainul Hoque, 3. Waidur Hoque @ Waidur Rahman, 4. Habej Ali, 5. Md. Mussabbir Hoque @ Aziz Mussabir, 6. Md. Harmuj Ali, 7. Md. Abdus Salam @ Md. Abdul Salam and 8. Md. Rafiqul Islam for grant of pre-arrest bail.

It is to be noted here that Rowta P.S. Case No. 128/2023 under Sections 147/148/447/325/307 has been registered on the basis of one F.I.R., lodged by one Md. Sheikh Forid on 23.07.2023. The essence of allegation made in the FIR is that on 22.07.2023, in connection with a land dispute, on the instigation of an accused, Waidur Hoque and Md. Rafiqul Islam, the other accused persons namely, Md. Jillul Hoque, Md. Mainul Hoque, Md. Dilowar Hussain, Habej Ali, Md. Musabbir Hoque, Md. Harmuj Ali, Md. Abdul Salam assaulted the mother, namely, Nur Nehar of the informant and his sisters, namely, Rashida Begum, Rajima Begum, Shehnaj Parvin injured them seriously.

Ms. Rajkhowa, learned counsel for the applicants submits that vide order dated 09.08.2023, this Court was pleased to extend interim protection of the applicant Nos. 4 and 7 and pursuant to said order they have appeared before

the Court and they have been extending co-operation with the Investigating Agency and therefore, it is contended to make the interim order dated 09.08.2023 absolute in the same terms and conditions.

Ms. Rajkhowa, learned counsel for the applicants further submits that all the accused and the informant's family members have a land dispute between them and that the applicants are ready to co-operate with the Investigating Agency and therefore, she contended to allow the other applicant Nos. 1,2,3,5,6 and 8 to grant the privilege of pre-arrest bail.

Having heard the submissions of learned advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Baruah, learned Additional Public Prosecutor for the State respondent.

It appears from the case diary that the I.O. has made substantial progress in the investigation of the case. He has examined the witnesses and also recorded the statement of the applicant Nos. 4 and 7 and there remains to collect the final injury report from the Gauhati Medical College and Hospital.

In view of the progress achieved in the investigation and also in view of the co-operation being extended by the applicant Nos. 4 and 7, custodial interrogation of the said two applicants seems to be not warranted herein this case. Accordingly, this Court is inclined to make the interim order dated 09.08.2023, absolute, in respect of applicant Nos. 4 and 7 in the same terms and conditions.

And having considered the materials collected so far in the case diary as well as progress of investigation, custodial interrogation of the other applicants also found to be not necessary here in this case. And therefore, this Court is

inclined to extend the privilege of pre-arrest bail to the aforesaid applicants also. Accordingly, it is provided that in the event of arrest of the applicant Nos. 1,2,3,5,6 and 8 namely, 1. Md. Jillul Hoque, 2. Md. Mainul Hoque, 3. Waidur Hoque @ Waidur Rahman, 5. Md. Mussabbir Hoque @ Aziz Mussabir, 6. Md. Harmuj Ali and 8. Md. Rafiqul Islam under Sections 147/148/447/325/307 of the Indian Penal Code, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 30,000/- (Rupees thirty thousand) each with one surety of like amount to the satisfaction of the arresting authority.

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

(i) that the applicants shall make themselves available for interrogation by the Investigating Officer as and when required;

(ii) that the applicants 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 them from disclosing such facts to the Court or to any police officer; and

(iii) that the applicants shall not leave the jurisdiction of the learned CJM, Udalguri, without prior permission.

Anticipatory Bail Application stands disposed of.

Case diary be returned.

JUDGE

Comparing Assistant