

GAHC010174462023



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

Case No. : AB/2770/2023

MOFIDUL ISLAM AND 3 ORS
S/O- AZIBAR RAHMAN, R/O- VILLAGE- PIPUL BARI, UNDER PS-
MANKACHAR, DISTRICT- SOUTH SALMARA MANKACHAR, ASSAM

2: SHAHIDUL ISLAM
S/O- LATE ABDUL MOZID
R/O- VILLAGE- PIPULBARI
UNDER PS- MANKACHAR
DISTRICT- SOUTH SALMARA MANKACHAR
ASSAM

3: SHAHINUR ISLAM
S/O- NUR ZAMAL
R/O- VILLAGE- DHARAKOBA
UNDER PS- MANKACHAR
DISTRICT- SOUTH SALMARA MANKACHAR
ASSAM

4: SURUT ZAMAL
S/O- LATE ABDUL NOTI
R/O- VILLAGE- DHARAKOBA
UNDER PS- MANKACHAR
DISTRICT- SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. M ISLAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 30-08-2023

Heard Mr. M. Islam, learned counsel for the applicant and also heard Ms. A. Begum, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Mankachar P.S.Case No. 252/2023 (GR No.589/2023) u/s 363/384/323 IPC, this application under Section 438 Cr.P.C is preferred by the applicants, namely, 1.Mofidul Islam, 2.Shahidul Islam,3. Shahinur Islam and 4.Surut Zamal for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Jul Hussain on 14.6.2023.

The essence of allegation made in the FIR dated 14.6.2023 is that, on 13.6.2023 at about 10 AM in the morning while he was proceeding towards Peepulbari Bazar, from his stone quarry situated at Meghalaya, then one Mofidul Islam, Shahidul Islam, Shahinur Islam and Momiron Islam came to him and demanded a sum of Rs.7,00,000/- and as he refused to pay the amount then he was taken to the house of accused Surut Zamal and assaulted him and therefore, taken him to the house of Nur Mahammad and there also they have assaulted him and snatched away a sum of Rs.1,20,000/- from him. Then at the instance of his brother, police recovered him from the clutch of the accused persons, while he was taken to Boroliagaon with a view to kill him.

Mr. Islam, learned counsel for the applicants submits that the applicant No.4 Surut Zamal is a Home Guard by profession and on the date of occurrence i.e.

13.6.2023, he was on duty from 8 AM to 2 PM at Kharuwabandha bazaar area and he is no way involved in the offence alleged in the FIR and just because he is the relative of one Gainul Islam, who had lodged one case for missing of his motor cycle on 20.5.2023 from Peepulbari market. Mr. Islam further submits that other three applicants are also innocent and no way involved in the offence alleged in the FIR and one Saher Ali of Peepulbari village on 2.6.2023 lodged one FIR about commission of lurking house trespass in his grocery go down and stealing of articles of worth Rs.17,60,136/- against the informant of this case and because of the lodging the aforementioned case against the informant he lodged this case falsely 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, Ms. Begum, learned Addl. P.P.has produced the case diary before this court and submits that the material, collected so far in the case diary are inadequate to show complicity of the applicants with the offences alleged in the FIR.

Having heard the submissions of learned Advocate for both sides, and I have carefully gone through the petition and materials placed on record and also perused the case diary with the assistance of Ms. A. Begum, learned Addl. P.P. In view of the materials collected so far in the case diary and also in view of the submission of learned Advocate of both sides, custodial interrogation of the applicants seems to be not warranted herein this case. Accordingly, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicants, in connection with Mankachar P.S.Case No. 252/2023 u/s 363/384/323 IPC, 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 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 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, Mankachar, without prior permission.

JUDGE

Comparing Assistant