

GAHC010174912023



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

Case No. : AB/2769/2023

ABDUL GAFUR AND 2 ORS
S/O LT. MOCHALE MUDDIN MUNSHI
R/O VILL- KAZAIKATA PART-V,
P.O. KAZAIKATA
P.S. BILASIPARA
DIST. DHUBRI, ASSAM
PIN-783348

2: ABDUL MATIN
S/O LT. MOCHALE MUDDIN MUNSHI
R/O VILL- KAZAIKATA PART-V

P.O. KAZAIKATA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-783348

3: ANOWAR HUSSAIN
S/O ABDUL KARIM AHMED
R/O VILL- KAZAIKATA PART-V

P.O. KAZAIKATA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-78334

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:HALIMA KHATUN

D/O HAIDAR ALI
VILL- KAZAIKATA PART-V
P.O. KAZAIKATA
P.S. BILASIPARA
DIST. DHUBRI
ASSAM
PIN-78334

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 29.08.2023

Heard Mr. M Hussain, learned counsel for the petitioners. Also heard Mr. B.Sarma, learned Addl. Public Prosecutor for the State/respondent No.1.

By this petition filed under Section 438 Cr.P.C., the petitioners, namely, **1. Abdul Gafur, 2. Abdul Matin** and **3. Anowar Hussain** have prayed for granting pre-arrest bail, apprehending arrest in connection with **Bilasipara P.S. Case No.184/2023** under Section u/ss 447/376 (2) (n) of the IPC r/w Section 6 of POCSO Act.

An additional affidavit has been filed by the petitioner No. 3.

Office note, dated 21.08.2023 shows that notice has been issued to the Respondent No. 2 by Dasti service.

From the additional affidavit filed by the petitioner No.3, it is seen that the respondent No. 2 refused to accept notice.

In view of above, notice is deemed to have been served on the respondent No. 2.

Case diary is received without the medical report.

The FIR reveals the allegation that on 15.06.2022, when the informant was going for tuition, the FIR named accused person forcefully took her to a jute cultivation filed and raped her and thereafter, again on 23.06.2022, he raped her at the same place.

On perusal of the case record, it is *prima facie* seen that one Lalchand Akond, a resident under Dhubri P.S. is the prime accused who is named in the FIR and he was in relationship with the victim girl. The petitioner No. 1 herein is the father of the main accused, petitioner No.2 is his uncle and petitioner No.3 is his cousin. The date of birth of victim is 05.02.2006 and date of alleged occurrence was 15.06.2022 i.e. she was aged 16 years and 4 months at the time of the alleged occurrence. It is also seen that the present petitioners are not named in the FIR. Medical report is not available on the case diary.

In view of above and considering the facts and circumstances, as emerged from the case diary, this Court finds it not expedient for custodial interrogation of the petitioners.

The prayer for anticipatory bail is hereby granted.

Accordingly, it is provided that in the event of arrest of the petitioners, named above, they shall be released on **pre-arrest bail**, in connection with the above noted case on furnishing bail bond of **Rs.30,000/- each** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer within 7 days, failing which, on and from the 8th day, the anticipatory bail order shall have no force; and
- (ii) That the petitioners 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/her from disclosing such facts to the Court or to any police officer.

Breach of any of the above conditions shall render cancellation of the instant pre-arrest bail order in accordance with law.

This disposes of the anticipatory bail application.

Return the case diary.

JUDGE

Comparing Assistant