

GAHC010175882023



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

Case No. : AB/2815/2023

ABDUL MALIK AND ANR.
S/O SAYAB ALI,
R/O TILKARGRANT, P.O.- GUMRAH, P.S.- KALAIN, DIST.- CACHAR, ASSAM.

2: JAIBUR RAHMAN
S/O LATE ABDUL JALIL

VILL.- KHELMA PT- VIII
P.O.- GUMRAH
P.S.- KALAIN
DIST.- CACHAR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY LD P.P.

Advocate for the Petitioner : MRS. R RONGMEI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 27.09.2023

Heard Mrs. R. Rongmei, learned counsel for the petitioners. Also heard Mr.

M.P. Goswami, learned Additional Public Prosecutor for the State.

This is an application made under **Section 438 Cr.P.C.**, seeking pre-arrest bail by the petitioners, namely, **Abdul Malik and Jiabur Rahman**, apprehending arrest in connection with **Kalain P.S. Case No. 225/2022**, registered under Section **420/342/366/325/506/34 of IPC r/w Section 25(I-A) Arms Act.**

It is submitted by the learned counsel for the petitioners that the victim is the legally married wife of the petitioner No. 1 and the petitioner No. 2 is the co-villager, so there is no question of kidnapping. It is also submitted that the other allegations made in the FIR are totally false and concocted. Under such backdrop, the benefit of pre-arrest bail be extended to the petitioners.

On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State has submitted that in the case diary, there is sufficient incriminating materials available against the petitioners. He further submitted that the statement of the victim was recorded under Section 164 Cr.P.C. wherein she stated that she was forcefully kidnapped by the petitioners for the purpose of marriage. Therefore, he prays that the prayer of the petitioners may not be considered at this stage.

I have considered the submissions made by the learned counsel for the parties and I have also perused the case dairy.

It appears that the present petitioners are very much involved with the commission of the offence as alleged in the FIR. It also appears that about two months back, the victim was forcefully taken away by the petitioners and she was forced to marry the petitioner No. 1. The victim was kept in the ground floor of Raj Hotel at Lakkhicherra and then she was forced to have sexual intercourse with several other men by Abu Mallick i.e. petitioner No. 1. When

she refused to do so, the petitioners assaulted her and attacked her with dao causing injury on her person. On 30.07.2022, the victim informed her elder sister and thereafter, with the help of police, she was recovered.

The victim was medically examined and on examination, doctor found- dry incised wound in between the ring and little finger over the palmar side of the left hand and two small scratch abrasion over the ridge of the nose.

Considering the materials available in the case diary as well as the nature of the offence, this Court is of the view that this is not a fit case to grant the privilege of pre-arrest bail to the petitioners. Therefore, the prayer is **rejected**.

The pre-arrest bail application stands disposed of accordingly.

Return the case diary.

JUDGE

Comparing Assistant