

GAHC010183922023



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

Case No. : AB/2912/2023

MIJANUR ALI SK AND ANR
S/O- ABU BAKKAR SIDDIQUE, RESIDENT OF VILL.- JAWLIYAPARA, P.O.
SIMBARGAON, P.S.- KOKRAJHAR, DIST.- KOKRAJHAR, ASSAM, PIN- 783345

2: RAFIQUUL ISLAM SK.
S/O- OMAR ALI
RESIDENT OF VILL.- JAWLIYAPARA
P.O. SIMBARGAON
P.S.- KOKRAJHAR
DIST.- KOKRAJHAR
ASSAM
PIN- 78334

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED P.P., ASSAM

Advocate for the Petitioner : MR. S AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 13-09-2023

Heard Mr. S. Ahmed, learned counsel for the applicant and also heard Ms. N. Das , learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Fakiragram P.S.Case No.74/2023, u/s 379/411 IPC read

with Section 13(1) of Assam Cattle Preservation Act,2021, this application u/s 438 Cr.P.C. is preferred by the applicants, namely, 1. Mijanur Ali Sk and 2. Rafiqul Islam Sk for grant of pre-arrest bail on 7.7.2023.

The essence of allegation made in the FIR that on 6.7.2023 at about 10-30 PM while he was on VDP duty at Paroura village, they have noticed one vehicle and while they stopped the vehicle then the driver of the vehicle fled away to the jungle leaving the vehicle there and they have found two calves tied with their four legs, inside the vehicle.

The learned counsel for the applicant submits that the applicants are innocent and no way involved with the offence alleged in the FIR and in fact, they have carried two cows to hand over to their relatives and on the way, the vehicle got break down and in the meantime, some people arrived at there and demanded money from them and thereafter, a false case has been lodged against them. Further Mr. Ahmed submits that the applicants are innocent and they are ready to cooperate with the investigating agency, and therefore, it is contended to allow this petition.

On the other hand, Ms. Das, learned Addl.P.P. submits that the I.O. has collected sufficient materials against the applicants and their custodial interrogation is necessary in the interest of investigation and therefore, it is contended to dismiss the petition.

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 Ms. Das, learned Addl. P.P.

It appears that the I.O. has collected sufficient materials in support of the allegation made in the FIR. But it also appears from the case diary the material part of the investigation almost over and the I.O. has examined witnesses and seized relevant documents.

Accordingly, this court is inclined to allow this petition. It is provided that in the event of arrest of the applicants, in connection with Fakiragram P.S.Case No.74/2023, they shall be released on pre-arrest bail on their executing a bond of Rs. 50,000/- 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 themselves 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.
3. That the applicants shall not leave the jurisdiction of the learned CJM, Kokrajhar without prior permission.

In terms of the above, Anticipatory bail application stands disposed of. Return the Case diary.

JUDGE

Comparing Assistant