

GAHC010194742023



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

Case No. : AB/3028/2023

MD MAHRUM ALI @ BABU AND 5 ORS
S/O MAHAMMAD ALI
R/O VILL- BHOGPUR
P.S. GORESWAR
DIST. TAMULPUR, BTR, ASSAM

2: MD. IDRISH ALI
S/O LATE SAMED ALI
R/O VILL- BHOGPUR
P.S. GORESWAR
DIST. TAMULPUR
BTR
ASSAM

3: MD. AJNUR ALI
S/O LATE SAMSER ALI @ KALIYA
R/O VILL- BHOGPUR
P.S. GORESWAR
DIST. TAMULPUR
BTR
ASSAM

4: MD. SAMSUL ALI
S/O NUR HUSSAIN ALI @ MD. NUR MAHAMMAD ALI
R/O VILL- BHOGPUR
P.S. GORESWAR
DIST. TAMULPUR
BTR
ASSAM

5: MD. MAFIDUL ALI
S/O NUR HUSSAIN ALI @ MD. NUR MAHAMMAD ALI
R/O VILL- BHOGPUR
P.S. GORESWAR

DIST. TAMULPUR
BTR
ASSAM

6: MD. SHIRAJ ALI
S/O LATE SAMSER ALI @ KALIYA
R/O VILL- BHOGPUR
P.S. GORESWAR
DIST. TAMULPUR
BTR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 08.11.2023

Heard Mr. A. K. Azad, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the 6(six) nos. of petitioners, namely, *1. Md. Mahrum Ali @ Babu, 2. Md. Idrish Ali, 3. Md. Ajnur Ali, 4. Md. Samsul Ali, 5. Md. Mafidul Ali and 6. Md. Shiraj Ali* who are apprehending their arrest in connection with Goreswar P.S. Case No. 124/2023 under Section 448/326/427/380/354/34 of the Indian Penal Code.

The gist of accusation in this case is that on 07.07.2023, the victim of this

case lodged an FIR before the Officer-in-Charge of Goreswar Police Station, *inter alia*, alleging that the accused persons named in the FIR, trespassed into her house and started breaking the glasses of windows and other articles and when the informant protested, the accused, namely, Shahidul Ali and Mahrum Ali assaulted the father of the first informant and also assaulted the first informant and tried to outrage her modesty.

Learned counsel for the petitioners submits that the main accused in this case, namely, Shahidul Ali was arrested and after completion of statutory period of detention, he was allowed to go on bail.

Learned counsel for the petitioners has also submitted that the allegations leveled in the FIR against the present petitioners are not true and they are not involved in the alleged in any manner.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Goreswar P.S. Case No. 124/2023 and has vehemently opposed the grant of bail to the present petitioners on the ground that there are incriminating materials against the present petitioners.

I have considered the submissions made by learned counsel for both sides and have perused the case diary of Goreswar P.S. Case No. 124/2023. It appears from the case diary that the main accused, namely, Shahidul Ali has already been arrested. It also appears from the case diary that there are serious incriminating materials against the petitioner Mahrum Ali in the case diary including the statement of the victim recorded by the Investigating Officer which does not justify his release on anticipatory bail at this stage of investigation. Hence, the prayer for grant of anticipatory bail to the accused, namely, *Md. Mahrum Ali @ Babu* is hereby rejected. However, as regards other accused persons, namely, 2. *Md. Idrish Ali*, 3. *Md. Ajnur Ali*, 4. *Md. Samsul Ali*, 5. *Md. Mafidul Ali* and 6. *Md. Shiraj Ali*, there is no

specific allegations against them and a general allegations is laid against them that they trespassed into the house of the victim girl.

Considering the materials in the case diary as well as submissions made by learned counsel for both sides and I am of the considered opinion that as regards petitioner Nos. 2 to 6, their custodial detention may not be necessary for fair completion of the investigation if they cooperate with the Investigating Officer. Hence, the petitioners, namely, 2. *Md. Idrish Ali*, 3. *Md. Ajnur Ali*, 4. *Md. Samsul Ali*, 5. *Md. Mafidul Ali* and 6. *Md. Shiraj Ali* are directed to appear before the Investigating Officer of Goreswar P.S. Case No. 124/2023 within a period of 10(ten) days from the date of this order. If they do so, within the stipulated period of time, in the event of their arrest in connection with Goreswar P.S. Case No. 124/2023, they shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) each with one surety of like amount to the satisfaction of arresting authority, subject to the condition that:-

1. They shall cooperate with the Investigating Officer in fair investigation of the case,
2. They shall not directly or indirectly make any inducement, threat or promise to the victim girl or any persons who is acquainted with the facts of this case so as to dissuade such persons from disclosing such facts to the Investigating Officer or before the Court.

With the above observation, this anticipatory bail application is disposed of.

Send back the case diary.

JUDGE

Comparing Assistant