

GAHC010210602023



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

Case No. : AB/3226/2023

AKALIMA KHATUN @ AKLIMA BEGUM
W/O JALAL ALI
VIL- BANGAL PARA
P.S. HAJO
DIST. KAMRUP,
PIN-781102

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

28.09.2023

Heard Ms. T. Som, learned counsel for the petitioner. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State of Assam.

This application under Section 438 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Aklima Khatun @Aklima Begum, who is apprehending her arrest in connection with Hajo P.S. Case No. 551/2023, under Sections 325/307/294/506/34 of the Indian Penal Code.

The gist of accusation against the present petitioner is that on 03.09.2023, one Sahab Ali lodged an FIR before the Officer-In-Charge of Ramdia out post under Hajo Police Station, naming six numbers of accused persons in the FIR including the present petitioner, *inter-alia*, alleging that on 02.09.2023 at about 2:00 AM, the accused persons named in the FIR were throwing pieces of woods into the land of the first informant and when the son of the first informant went to protest they had quarrel and on that occasion the accused persons assaulted the first informant and her daughter Ambia Khatun who was hit on her head by the accused persons. Later on, on receipt of the said FIR, Hajo P.S. Case No. 551/2023 was registered.

Learned counsel for the petitioner has submitted that the petitioner is innocent. She also submits that there was some altercations between both the families of the petitioner as well as the informant. However, the present petitioner was not involved in any kind of assault on the informant or any of his family members. She has further submitted that her husband namely, Jalal Ali has already been arrested in this case. She submits that the petitioner is a housewife and she will co-operate in the investigation.

On the other hand, learned Additional Public Prosecutor, Mr. R.J. Baruah submits that the daughter of the first informant namely, Ambia Khatun has succumbed to her injuries. It is also submitted that though accused No. 1 and accused No. 2 named in the FIR have already been arrested, however, the present petitioner was not specifically named by the injured person while his statement was recorded under Section 161 of the Code of Criminal Procedure,

1973.

I have perused the materials available on record including the case diary of Hajo P.S. Case No. 551/2023 as well as considered the submissions made by learned counsel for both the parties.

Considering the fact that the petitioner has not been specifically named by the injured person in his statement given to the Investigating Officer under Section 161 of the Code of Criminal Procedure, 1973 as well as considering the fact that the main allegation appears to be there against accused No. 1, who has already been arrested and also considering the fact that the investigation of this case has fairly progressed, this Court is of the considered opinion that custodial detention of the present petitioner may not be necessary, if she co-operates with the Investigating Officer.

In view of above, the present petitioner, namely, Aklima Khatun @Aklima Begum, is hereby directed to appear before the Investigating Officer of Hajo P.S. Case No. 551/2023 within a period of 10(ten) days from the date of this order and co-operate in the investigation. If she does so within the stipulated period of time, in the event of her arrest in connection with Hajo P.S. Case No. 551/2023, she shall be allowed to go on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the arresting authority subject to the condition that she shall co-operate in the investigation.

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

Send back the case diary.

JUDGE

Comparing Assistant