

GAHC010212562023



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

Case No. : AB/3272/2023

HABIBOR PORAMANIK @ HABIBAR PRAMANIK AND 4 ORS
S/O LATE MOHIR UDDIN PORAMANIK
R/O VILL- SUAPATA PART-II
P.S. CHAPAR
DIST. DHUBRI, ASSAM

2: LALCHAN PORAMANIK @ LALCHAND PRAMANIK

S/O LATE ABUSHAMA PORAMANIK
R/O VILL- SUAPATA PART-II
P.S. CHAPAR
DIST. DHUBRI
ASSAM

3: ANNA KHATUN
W/O LALCHAN PORAMANIK
R/O VILL- SUAPATA PART-II
P.S. CHAPAR
DIST. DHUBRI
ASSAM

4: KALU PRAMANIK @ SOMER ALI PRAMANIK
S/OLATE ABUSHAMA PORAMANIK
R/O VILL- SUAPATA PART-II
P.S. CHAPAR
DIST. DHUBRI
ASSAM

5: FULCHAN PRAMANIK
S/O LATE ABUSHAMA PORAMANIK
R/O VILL- SUAPATA PART-II
P.S. CHAPAR
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 14.11.2023

Heard Mr. N. J. Dutta, learned counsel for the petitioners. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by 5(five) nos. of petitioners, namely, (1) Habibor Poramanik @ Habibar Pramanik (2) Lalchan Poramanik @ Lalchand pramanik (3) Anna Khatun (4) Kalu Pramanik @ Somer Ali Pramanik and (5) Fulchan Pramanik who were apprehending their arrest in connection with the Chapar P.S. Case No. 181/2023 under Sections 441/324/326/34 of Indian Penal Code.

During the pendency of this anticipatory bail petition, the petitioner No. 1, namely, Habibor Poramanik @ Habibar Pramanik was already arrested and, therefore, the instant bail application with regard to the said petitioner has become infructuous.

As regards petitioner Nos. 4 and 5, namely, Kalu Pramanik @ Somer Ali Pramanik and Fulchan Pramanik, it appears that both of them were allowed to

go on interim anticipatory bail by order dated 25.09.2023 and it is submitted by learned counsel for the petitioners that both of them have appeared before the Investigating Officer and have cooperated in the investigation.

Learned counsel for the petitioner has submitted that the petitioner No. 3, namely, Anna Khatun being a woman may be considered for grant of anticipatory bail as she has herself did not inflict any injury on the victim.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Chapar P.S. Case No. 181/2023 and has submitted that the petitioner Nos. 4 and 5, namely, Kalu Pramanik @ Somer Ali Pramanik and Fulchan Pramanik have appeared before the Investigating Officer and their statements were also recorded.

As regards other two petitioners, namely, Lalchan Poramanik @ Lalchand pramanik and Anna Khatun, learned Additional Public Prosecutor has submitted that there are sufficient incriminating materials against both of them and the injury report of the victim, namely, Kaincha Paramanik shows that he suffered multiple stab injuries in which he sustained grievous injuries and the nature of weapon used for causing such injuries found to be sharp aged weapon.

I have considered the submissions made by learned counsel for both sides and have perused the materials available on record including the case diary as well as injury report.

As the petitioners, namely, Kalu Pramanik @ Somer Ali Pramanik and Fulchan Pramanik have cooperated in the investigation after getting interim anticipatory bail, hence, the interim bail granted to them by order dated 25.09.2023, is hereby made absolute with following conditions:-

1. They shall continue to cooperate with the Investigating Officer of

this case and shall appear before him as when so required by the Investigating Officer for the sake of fair investigation

2. They shall not make any inducement, threat or promise to the victim or any other persons who is acquainted with the facts of the case so as to dissuade such persons from disclosing such facts before the Investigating Officer.

As regards the petitioner, namely, Anna Khatun is concerned, though there are incriminating materials against the said petitioner, however, it appears that she has herself not inflicted the injuries on the victim. Couple with the fact that the said petitioner is a woman, this Court is of considered opinion that her custodial interrogation may not be necessary, if she, otherwise, co-operates with the Investigating Officer. Hence, the petitioner, namely, Anna Khatun is hereby directed to appear before the Investigating Officer of Chapar P.S. Case No. 181/2023 within a period of 10(ten) days from the date of this order and cooperate in the investigation. If she does so, within the stipulated period of time, in the event of her arrest in connection with Chapar P.S. Case No. 181/2023, she shall be allowed to go on bail of Rs.30,000/- (Rupees Thirty Thousand) with one security of like amount subject to the satisfaction of arresting authority with the conditions which were already imposed with regard to petitioner Nos. 4 and 5 hereinabove.

As regards, the petitioner No. 2, namely, Lalchan Poramanik @ Lalchand pramanik as there are sufficient incriminating material against the said petitioner and as the injuries sustained by the victim is grievous in nature and considering the weapon of offence used for inflicting such injuries, this Court is not inclined to grant the benefit of an order under Section 438 of the Code of Criminal

Procedure, 1973 to the said petitioner at this stage of investigation. Hence, his prayer for grant of anticipatory bail is hereby rejected.

This anticipatory bail is accordingly disposed of.

Send back the case diary.

JUDGE

Comparing Assistant