

GAHC010215632023



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

Case No. : AB/3302/2023

NAZIR UDDIN AND 4 ORS
SON OF LATE HAJI TARMUJ ALI, RESIDENT OF VILLAGE- BURIBAIL,
NILBAGAN, POLICE STATION- MURAJHAR, DISTRICT- HOJAI, ASSAM

2: SRI JAMIR UDDIN
SON OF LATE HAJI TARMUJ ALI
RESIDENT OF VILLAGE- BURIBAIL
NILBAGAN
POLICE STATION- MURAJHAR
DISTRICT- HOJAI
ASSAM

3: SRI SIBJUL ALOM
SON OF JAMIR UDDIN
RESIDENT OF VILLAGE- BURIBAIL
NILBAGAN
POLICE STATION- MURAJHAR
DISTRICT- HOJAI
ASSAM

4: SRI KIJRUL ALOM
SON OF NAZIR UDDIN
RESIDENT OF VILLAGE- BURIBAIL
NILBAGAN
POLICE STATION- MURAJHAR
DISTRICT- HOJAI
ASSAM

5: SRI ASHRAFUL ALOM @ RIZWAN ALOM
SON OF NAZIR UDDIN
RESIDENT OF VILLAGE- BURIBAIL
NILBAGAN
POLICE STATION- MURAJHAR
DISTRICT- HOJAI, ASSA

VERSUS

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

Advocate for the Petitioner : MR. A B T HAQUE

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 26-09-2023

Heard Mr. ABT Haque, learned counsel for the applicant and also heard Ms. A. Begum, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Murajhar P.S. Case No. 177/2023, under Sections 420/406/295(A)/298/34 IPC, this application, under Section 438 Cr.P.C. is preferred by the applicants, namely, 1. Nazir Uddin, 2. Sri Jamir Uddin , 3.Sri Sibjul Alom, 4. Sri Kijrul Alom and 5. Sri Ashraful Alom @ Rizwan Alom, for grant of pre-arrest bail.

It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Kalandar Ali Barlaskar on 15.8.2023. The essence of allegation made in the FIR, is that one Manjur Alom had taken a sum of Rs. 5,00,000/- from him on 1.7.2020 to supply raw materials of Agar perfume. But, he failed to supply the raw materials and also failed to return the amount and on 11.7.2023 at about 5.30 p.m while the informant asked Manjur Alom to return the amount, then Manjur Alom along with one Najir Uddin, Sinjul Alom , Khijrul Alom , Didarul Alom, Rijwan Alom and Jamir Uddin attempted to evict him from a plot of land measuring 3 bighas 4 kathas, under Kopahbari Mouza of Tarkata Kisamot.

Mr. Haque, learned counsel for the applicant submits that the applicants are innocent and no way involved with the offence alleged in the FIR and that only allegation against them are that accused No.1, Manjur Alom alongwith the petitioners attempted to grab a plot of land which belongs to Naziruddin, the accused No.2 of the FIR, and that the applicants are ready to cooperate with the investigating agency and that the main accused, namely,Manjur Alom Barlaskar @ Manju was arrested in connection with this case and this Court was pleased to grant him bail vide order dated

22.9.2023, in B.A.No. 3403/2023, and that the applicants are ready to cooperate with a the investigating agency and therefore, it is contended to allow this petition

On the other hand, Ms. A. Begum, learned Addl. P.P. submits that case diary may be called for.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the order dated 22.9.2023, passed in B.A.No. 3403/2023.

Having regards to the nature of allegation against the applicant made in the FIR and also having regards to the punishment prescribed for the same and also considering the submission of learned Advocates of both side, this Court is of the view that custodial interrogation of the applicants, in the interest of investigation, seems to be not warranted herein this case and therefore, this Court is inclined to allow this petition.

It is provided that in the event of arrest of the applicants, in connection with Murajhar P.S. Case No. 177/2023, under Sections 420/406/295(A)/298/34 IPC, they shall be released on pre arrest bail on their executing a bond of Rs.50,000/- each 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 himself available for interrogation by the Investigating Officer as and when required;
2. That the applicant 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; and
3. That the applicants shall not leave the jurisdiction of the learned CJM, Hojai, without prior permission.

JUDGE

Comparing Assistant