

GAHC010219372023



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

Case No. : AB/3338/2023

ATIKUL ISLAM AND ANR
S/O ABDUL KADIR
R/O VILL- NO. 2 DHARMAPUR
SUBUR TINIALI
P.O. DHARMAPUR
P.S. LALUK
PIN-784160
DIST. LAKHIMPUR, ASSAM

2: ABU TAHER
S/O ABDUL KADIR
R/O VILL- NO. 2 DHARMAPUR
SUBUR TINIALI
P.O. DHARMAPUR
P.S. LALUK

PIN- 784160
DIST. LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:JASMINA BEGUM
D/O MD. ZIABUR RAHMAN @ JIABUR RAHMAN
R/O VILL- NO. 2 DHARMAPUR
SUBUR TINIALI
P.O. DHARMAPUR
P.S. LALUK
PIN-784160
DIST. LAKHIMPUR
ASSA

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 13.10.2023

Heard Ms. S.G Baruah, learned counsel for the petitioners as well as Mr. D.P.Goswami, learned Addl. P.P., Assam for the State respondent No.1. Also heard Mr. A Khan, learned counsel for the respondent No.2.

By this petition under Section 438 Cr.P.C., the petitioners, namely, **1. Atikul Islam and 2. Abu Taher** have prayed for grant of pre-arrest bail apprehending arrest in connection with **Laluk PS Case No.147/2023 (GR No. 729/2023)** under Sections 354A/326/325/506/34 of the IPC r/w Section 8 of POCSO Act.

It is submitted by the learned counsel for the petitioners that prior to filing of present FIR, the petitioners have lodged another FIR alleging that the father of the informant along with two other persons committed the offence of rape for which a case has been registered against them and the present FIR lodged by the victim is a counter blast of the said FIR and as such, the petitioners may be granted the privilege of pre-arrest bail.

The learned Addl.P.P. has fairly submitted that the statement under Section 164 CrPC of the victim was recorded but there is no specific allegation against the present petitioners that they have committed such offence which falls under Section 8 of POCSO Act. The injury report of the father of the victim reveals simple injury.

Case diary is placed before the court.

I have perused the case diary as well as the statements of the victim u/s 164 CrPC which reveals that on 24.07.2023, at about 10 pm, when the victim girl came out of her room for nature's call, at that time, Md. Abu Taher, Md. Abdul Kalam and Md. Motibur @ Majibur took her backside of their house and torn her wearing apparel and when she called her father,

Faizul assaulted him. The medical report of the father of victim is available on record and it reveals that he sustained simple injury.

In the backdrop of facts as emerged from the case diary, this Court finds it not expedient for custodial interrogation of the petitioner.

In view of above, the prayer for anticipatory bail is hereby granted.

It is provided that in the event of arrest of the petitioners, named above, they shall be released on **pre-arrest bail**, in connection with the above noted case on furnishing bail bond of **Rs.30,000/- (Thirty Thousand) each** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer within 7 days, failing which, on the 8th day, the anticipatory bail order shall automatically expire;
- (ii) That the petitioners 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/her from disclosing such facts to the Court or to any police officer.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant