

GAHC010230072023



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

Case No. : AB/3507/2023

MD. MABUD ALI @ MAMUD ALI AND ANR
S/O- NUR IMAN ALI PERMANENT RESIDENT OF DAMPUR AMDOLAPAR
P.S- HAJO KAMRUP, ASSAM AND PRESENTLY RESIDING AT VILL-
BHITARMUTI (RENTED HOUSE), P.S- TEZPUR,, DIS- SONITPUR, ASSAM

2: SMT. KABITA DEKA
D/O- MANTU DEKA PERMANENT RESIDENT OF INDIRA NAGAR
MAHABHAIRAB
P.S- TEZPUR
DIS- SONITPUR
ASSAM. PRESENTLY RESIDING AT GUWAHATI LAW COLLEGE
GUWAHARTI
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. K N KALITA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 14-11-2023

Heard Mr. P. Bharadwaj, learned counsel for the petitioners. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the State/respondent.

2. This is an application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioners, namely, **(1) Md. Mabud Ali @ Mamud Ali and (2) Smt. Kabita Deka**, in connection with **Tezpur P.S. Case No. 790/2023**, registered under **325/326/392** of **IPC**.

3. It is submitted by the learned counsel for the petitioners that pre-arrest bail is granted to the petitioner no. 2, Smt. Kabita Deka with a direction to appear before the Investigating Officer and accordingly she has appeared before the Investigating Officer as per the direction of this Court and her statement has already been recorded after she was granted interim protection. She has not misused the liberty granted to her; rather, she co-operate with the investigation of the case. Therefore, the privilege of pre-arrest bail granted to the petitioner may be made absolute.

4. Mr. Goswami, learned Additional Public Prosecutor for the State submits that as the statement of petitioner no. 2, Smt. Kabita Deka has already been recorded by the Investigating Officer and as such, her custodial interrogation may not be required.

5. I have considered the submission made by the learned counsel for the parties. It appears that the petitioner no. 2, Smt. Kabita Deka has not misused the liberty granted to her while availing interim protection. Considering all, this

Court is of the view that the petitioner no. 2, Smt. Kabita Deka deserves to be granted the privilege of pre-arrest bail.

6. That being so, the petitioner no. 2, Smt. Kabita Deka is granted the privilege of pre-arrest bail.

7. Accordingly, the interim protection granted to the petitioner no. 2, Smt. Kabita Deka vide order dated 12.10.2023, is made absolute on the same terms and conditions, as reflected.

8. The learned Additional Public Prosecutor has submitted that the case diary has been received and perused the same. The learned Additional Public Prosecutor has fairly submitted that the medical report of the victim is with the case diary from which it reveals that the victim sustained simple injuries caused by blunt object which falls under Section 323 IPC and bailable in nature. It is further submitted that there is no allegation against the petitioner no. 1, Md. Mabud Ali @ Mamud Ali that he snatched away the money from the victim as alleged in the FIR.

9. I have perused the case diary along with the documents available thereon. Considering the background of the case, this Court finds that custodial interrogation of the petitioner no. 1, Md. Mabud Ali @ Mamud Ali is not required for the purpose of investigation of the case. Therefore, he is granted the privilege of pre-arrest bail.

10. Accordingly, it is provided that in the event of arrest of the petitioner no. 1, Md. Mabud Ali @ Mamud Ali, in connection with **Tezpur P.S. Case No. 790/2023**, registered under **325/326/392** of **IPC**, he shall be released on

furnishing bail bond of **Rs.20,000/-** with **a suitable surety** of the like amount, to the satisfaction of the arresting authority.

11. The direction for pre-arrest bail is subject to the conditions that the petitioner:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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.

12. The anticipatory bail application stands disposed of accordingly.

13. Return the case diary.

JUDGE

Comparing Assistant