

GAHC010234842023



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

Case No. : AB/3597/2023

DULAL DAS AND 2 ORS
S/O LATE KUMUD DAS
VILL- PANCHGRAM
P.S. PANCHGRAM
DIST HAILAKANDI, ASSAM

2: SUJIT DAS @ BABON
S/O LATE KUMUD DAS
VILL- PANCHGRAM
P.S. PANCHGRAM
DIST. HAILAKANDI
ASSAM

3: SUBHNA DAS
W/O DULAL DAS
VILL- PANCHGRAM
P.S. PANCHGRAM
DIST. HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

08.11.2023

Heard Mr. A.M. Barbhuiya, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by three petitioners, namely, (1) Dulal Das (2) Sujit Das @ Babon and (3) Subhna Das, who are apprehending their arrest in connection with Panchgram P.S. Case No. 74/2023 under Sections 447/141/146/307/354/325/294/506 of the Indian Penal Code.

The accusation against the present petitioners is that on 18.08.2023, one Shri Biresh Choudhury lodged an FIR before the Officer-In-Charge of Panchgram Police Station, *inter-alia*, alleging that on that day, i.e. on 18.08.2023, at about 12 noon five accused persons named in the FIR, including the present petitioners trespassed into the house of the first informant and outraged the modesty of the wife of the first informant and also assaulted the wife of the first informant from backside and caused fracture in her head.

Learned counsel for the petitioners submits that there was some altercations between the present petitioners and the other co-accused persons named in the FIR and the wife of the informant.

However, the allegation made in the FIR is not true and it has been exaggerated.

It has been submitted by learned counsel for the petitioners that in the meanwhile Court of learned Additional Sessions Judge, Hailakandi has allowed the accused Nos. 4 and 5 named in the FIR to go on anticipatory bail.

Learned counsel for the petitioners has submitted that the petitioners are ready to co-operate in the investigation and therefore, prays for allowing the petitioners to go on anticipatory bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Panchgram P.S. Case No. 74/2023 and has submitted that there are incriminating materials against the present petitioners. He has vehemently opposed the grant of bail to the petitioner No. 1, Dulal Das on the ground that he assaulted the informant wife with a hammer.

However, learned Additional Public Prosecutor has fairly submitted that the injuries found in the injury report is available in the case diary is mild in nature.

Considering the fact that two of the co-accused are already allowed to go on anticipatory bail by the Court of learned Additional Sessions Judge, Hailakandi, also considering the progress made in the investigation as well as nature of the injuries sustained by the victim, this Court is of the considered opinion that custodial detention of the present petitioners does not appear to be necessary for fair completion of the investigation of the case if they co-operate in the investigation.

In view of above, the above named petitioners, are hereby directed to appear before the Investigating Officer of Panchgram P.S. Case No. 74/2023 within a period of 10(ten)days from the date of this order and co-operate in the investigation. If they do so, within the stipulated period of time, in the event of their arrest in connection with Panchgram P.S. Case No. 74/2023, the above named petitioners shall be allowed to go on interim bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

- (i) the petitioners shall not directly or indirectly make any inducement

threat or promise to the informant, his wife or any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to Court;

(ii) the petitioners shall co-operate in the investigation and shall appear before the Investigating Officer as and when so required by the Investigating Officer for the sake of fair investigation.

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

Send back the case diary.

JUDGE

Comparing Assistant