

GAHC010249042023



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

Case No. : AB/3728/2023

SAIDUL ISLAM AND ANR.
S/O MD. TOFIL UDDIN @ TOHIL UDDIN
VILL- ALISINGA URIYAMGURI, P.O. URIYAMGURI, P.S. TEZPUR, DIST.
SONITPUR, ASSAM, PIN-784025

2: SAHIR UDDIN
S/O MD. TOFIL UDDIN @ TOHIL UDDIN
VILL- ALISINGA URIYAMGURI
P.O. URIYAMGURI
P.S. TEZPUR
DIST. SONITPUR
ASSAM
PIN-78402

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

22.11.2023

Heard Mr. S.C. Biswas, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor, appearing for the State of Assam.

Learned counsel for the petitioners submitted that on 02.11.2023, the petitioners, namely, 1. Saidul Islam and 2. Sahir Uddin were allowed to go on interim anticipatory bail, with certain conditions and in pursuant to the directions of this Court, both the petitioners have appeared before the Investigating Officer and have co-operated in the investigation.

It is further submitted by learned counsel for the petitioners that father of the present petitioners, namely, Tohil Uddin, who has also been named as a co-accused in the FIR was arrested in this case and is presently behind the bars.

It is also submitted by the learned counsel for the petitioners that the father of the present petitioner also sustained grievous injuries and in this connection, the petitioner No. 1 has also lodged an FIR against the informant Abdul Karim and 12 (twelve) other family members and relatives of the said informant and the said case has been registered under Section 294/325/326/392/447/506 of the Indian Penal Code as Tezpur P.S. Case No. 639/2023.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Tezpur P.S. Case No. 668/2023 and has submitted that though both the petitioners have appeared before the Investigating Officer and their statements under Section 161 of the Code of Criminal Procedure, 1973 has also

been recorded by the Investigating Officer.

However, the injury report available in the case diary shows that the injuries sustained by the victim is grievous in nature and caused by sharp weapon and on that ground the learned Additional Public Prosecutor has opposed in making of interim bail granted to the present petitioners as absolute.

I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record including the case diary of Tezpur P.S. Case No. 668/2023 as well as the injury report of the victim which is available on record.

It appears from record that there was an altercation between both the sides involved in this case regarding cutting of bamboo and the persons from both the sides sustained injuries and both the sides lodged cross FIR against each other.

It also appears from record that though the victim/injured in the instant case sustained grievous injuries, however, the present petitioners appears to have co-operated in the investigation as their statement under Section 161 of the Code of Criminal Procedure, 1973 have been recorded by the Investigating Officer and there is no endorsement by the Investigating Officer in the case diary which would suggest that the custodial detention of the present petitioners may be necessary.

Hence, this Court is of the considered opinion that custodial detention of the present petitioners does not appears to be necessary for fair completion of the investigation, if they otherwise co-operates in the investigation.

In view of above, the interim anticipatory bail granted to the petitioners, named above, by order dated 02.11.2023 is hereby made absolute with condition Nos. 1,2,3,4 and 5 attached to the said order remaining intact.

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

Send back both the case diaries.

JUDGE

Comparing Assistant