

GAHC010250952023



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

Case No. : AB/3776/2023

SULEMAN @ MD. SULEMAN AHMED AND ANR
S/O- SOMSUR UDDIN @ NUR UDDIN, R/O- VILL- BURUNGA TOLI, P.O.
BURUNGATOLI BAZAR, P.S. MURAJHAR, DIST.- HOJAI (ASSAM)

2: MONSUR @ MONSUR AHMED
S/O- SOMSUR UDDIN @ NUR UDDIN
R/O- VILL- BURUNGA TOLI
P.O. BURUNGATOLI BAZAR
P.S. MURAJHAR
DIST.- HOJAI (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 21.11.2023

Heard Mr. N. Uddin, learned counsel for the petitioner. also heard Mr. B. Sarma, learned Additional Public Prosecutor.

This is an application under Section 438 of Code of Criminal Procedure has been filed by the petitioners namely 1. Suleman @ Md. Suleman Ahmed 2. Monsur @ Monsur Ahmed who are apprehending their arrest in connection with Murajhar P.S. CaseNo.223/2023 under Sections 341/294/326/379/427/34 IPC.

The gist of accusation against the present petitioners is that on 12.10.2023 one Anowar Hussain lodged an FIR before the Officer In-Charge of Murajhar Police Station alleging that on 11.10.2023 at about 9.30 pm the elder brother of the first informant was assaulted by the accused person named in the FIR (present petitioners) and they took away Rs.90500/- and other belongings of the brother of the petitioner. It is also alleged in the FIR that the injury sustained by him was grievous in nature and eight stitches were put on the injuries. However, the learned counsel for the petitioners has submitted that the allegations levelled against the present petitioners in the FIR are false. It is further submitted that the petitioners and the informant's family are business rivals and about one year ago, an incident occurred where the petitioner No.2 was injured and an FIR was lodged, however the same was not registered and it is submitted that the present FIR has been lodged falsely only to harass the present petitioners.

On the other hand, learned Additional Public Prosecutor has produced the case diary and submits that there are incriminating materials against the petitioner No.1. However it is submitted that the injury sustained by the victim is simple in nature and caused by blunt object. It is also submitted by the learned Additional Public Prosecutor that the injury report does not suggest that any stiches were put to the injuries of the victim as alleged in the FIR.

I have considered the submission made by the learned counsel for both sides and have perused the case diary.

Considering the fact that the Investigating Officer has recorded statement of witness including the victim and also considering the fact that the injuries sustained by the victim is of simple nature, custodial detention of the present petitioners does not require to be necessary for fair completion of the investigation of the case.

Hence, both the petitioners named above are hereby directed to appear before the Investigating Officer of Murajhar P.S. CaseNo.223/2023 within a period of ten days from the date of this order and to cooperate in the investigation. If they do so within the stipulated period of time, the above named petitioners shall be allowed to go on interim bail of Rs.30,000/- with a local surety of the like amount to the satisfaction of the arresting authority with the condition that both the petitioners shall appear before the Investigating Officer as and when required by the Investigating Officer and they shall not in any manner make any inducement thereto or promise to any other person/witness may be acquainted with the fact of the case so as to dissuade such person/persons from disclosing such facts before the Investigating Officer.

With the above observation, anticipatory bail application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant