

GAHC010254542022



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

Case No. : AB/3672/2022

IKRAMUL ALI AND ANR
S/O ABDUL MANNAF
R/O VILL- ROWMARI
P.S. SADAR
DIST. NAGAON, ASSAM
PIN-782125

2: ROHIMA KHATUN @ SARUFA BEGUM
W/O IKRAMUL ALI
R/O VILL- ROWMARI
P.S. SADAR
DIST.NAGAON
ASSAM
PIN-78212

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : S AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 05-01-2023

Heard Mr. S Ahmed, learned counsel for the applicant and

also heard Mr. BB Gogoi, learned Addl. PP, appearing for the State Respondent.

Apprehending arrest in connection with Nagaon PS Case No.1092/2022, under section 353 IPC, read with section 21(b)/29 of the NDPS Act, this application under section 438 Cr.P.C., is preferred by applicants, namely, 1. Ikramul Ali and 2. Rohima Khatun @ Sarufa Begum, for grant of pre arrest bail.

The said case has been registered on the basis of one FIR lodged by SI Abha Jyoti Rabha on 14.09.2022, to the effect that acting on a tip off, they have conducted search in the house of Ikramul Ali and recovered 21.05 gms of suspected heroin and seized the same in presence of witnesses, and while they were conducting search in the house of Ikramul Ali, then one Ashadul Islam @ Saka, Sariful Islam, Jakir Hussain, Intu @ Andajul Ali, Ikramul Hussain, Madu Ali, Miss Nur Nehar, Sarufa Begum and Mastufa Ali and other associates obstructed the police party and helped the accused person to escape from the place of occurrence.

The learned counsel for the applicant submits that the applicants are innocent and no way involved with the offence alleged in the FIR and the only allegation leveled against the applicant No.2 Rohima Khatun is that she obstructed the police party in conducting search in her house and the offence under section 21(b)/29 NDPS is not attracted in her case, and they are ready to cooperate with the investigating agency and they have two minor children also to look after and therefore, it is contended to allow this petition.

On the other hand, Mr. Gogoi, learned Addl. PP has produced

the case diary before this court and submits that the IO has collected sufficient incriminating materials against the accused and contraband substance was recovered from the house of the applicants and the same was sent to the FSL, and the FSL report reveals that the same gave positive test for heroine and therefore, Mr. Gogoi contended to dismiss the petition.

Having heard the submission of learned Advocates for both the sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of learned Addl. PP.

It appears that the applicant No.2 Smti. Rohima Khatun is the wife of the applicant No.1 Ikramul Ali and from their house, police recovered and seized 21.05 gms of heroine. The materials collected so far in the case diary reveals complicity of the applicants with the offence alleged in the FIR, the investigation is yet to be completed and therefore, this Court is of the considered opinion that this is not a fit case where the privilege of pre arrest bail can be granted to the applicant and accordingly, the petition stands dismissed.

The case diary be returned.

JUDGE

Comparing Assistant