

GAHC010259622022



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

Case No. : AB/3730/2022

ZAMAL UDDIN AND 10 ORS
S/O LT. ABDUS SUKUR MUNSHI
VILL- NAYAGOAN, UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

2: AZIZUR RAHMAN SHEIKH @ AZIZUR RAHMAN
S/O ZAMAL UDDIN
VILL- NAYAGAON UZANBOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

3: RENUKA BIBI
W/O HUSNE ZAMAN @ HUSU
VILL-NAYAGAON UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

4: EUSUF ALI
S/O HUSNE ZAMAL @ HUSU
VILL- NAYAGAON UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

5: ZOHIRUL ISLAM
S/O ABDUL ALI
VILL- TAKIMARI
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

6: ROFIAL HOQUE @ ROBIYAL HOQUE
S/O ABDUL ALI
VILL- TAKIMARI
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

7: SELIM KHAN
S/O MOZIBOR RAHMAN
VILL- UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

8: ROUSHONAL RASHID
S/O SIDDIK ISLAM
VILL- UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

9: REZAUL KARIM @ BABU
S/O SIDDIK ISLAM
VILL- UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

10: ABDUL ROUF
S/O SOLEMAN ALI
VILL- UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-783128

11: ABDUL BASHID @ BASHID
S/O ABDUL KASHEM AKAND
VILL- UZAN BOZRA
P.S. SUKCHAR
DIST. SOUTH SALMARA MANKACHAR
PIN-78312

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 17-01-2023

Heard Mr. H. R. A. Choudhury, learned senior counsel for the applicants. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, for grant of pre-arrest bail to the accused/applicants, who are apprehending arrest in connection with Sukchar Police Station Case No. 54/2018 under Sections 147/148/341/353/379/427 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by Mr. Choudhury, learned counsel for the applicants, that the applicants are innocent and they are not at all involved in the alleged offence as alleged in the F.I.R. It is also submitted that when the accused Nurul Islam tried to flee then the police open blank fire and people of market ran away for which the informant and other staff sustained some injuries due to crowd of the people in the market and regarding the same, the present FIR has

been lodged against the applicants. Further, it is also submitted that the applicants had not participated in any manner to prevent the Police personnel from arresting one Shri Nurul Islam, who had already passed away. It is also submitted that the applicants will appear before the IO and shall co-operate in the investigation of the case, if they are granted with the privilege of interim pre-arrest bail.

In this context, Mr. K. K. Parasar, learned Additional Public Prosecutor has submitted that the witnesses has disclosed the fact that the applicants were involved in the commission of offence except applicants No.3 and 8, and it also reveals from the statement of the witnesses that the petitioner No. 11 i.e. Sri Abdul Bashid @ Bashid is the main culprit, who gathered all the other applicants and obstructed the police personnel and also assaulted the Police personal. He also submitted that the applicant No. 11 is the brother of the Shri Nurul Islam, and there may be some involvement of said applicant No.11, and accordingly raised objections in granting pre-arrest bail to the applicant No.11. However, the learned Additional Public Prosecutor raised no objection for the other applicants.

After hearing the submissions of learned counsels for both sides and also considering the materials available in the Case Diary, I find that it is a fit case to extend the privilege of pre-arrest bail to the accused/applicant Nos. 1 to 10. However, the prayer made on behalf of the accused/applicant, Sri Abdul Bashid @ Bashid No. 11 stands rejected.

Accordingly, it is provided that in the event of arrest of the accused/applicants Nos. 1 to 10 namely, 1. Sri Zamal uddin, 2. Azizur Rahman

Sheikh @ Azizur Rahman, 3. Smti Renuka Bibi, 4. Sri Eusuf Ali, 5. Sri Zohirul Islam, 6. Sri Rofial Hoque @ Robiyal Hoque, 7. Sri Selim Khan, 8. Sri Roushonal Rashid, 9. Sri Rezaul Karim @ Babu and 10. Sri Abdul Rouf in connection with Sukchar Police Station Case No. 54/2018 under Sections 147/148/341/353/379/427 of the Indian Penal Code, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 15,000/- (Rupees fifteen thousand) each, with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation before the Investigating Officer as and when required;
- (ii) that the petitioners 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; and
- (iii) that the petitioners shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant