

GAHC010263532023



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

Case No. : AB/3982/2023

BADRUL ISLAM LASKAR AND 4 ORS
S/O LT. MOYNUL HAQUE LASKAR
R/O VILL- APPIN PT.II
P.O. APPIN,
P.S.LALA
DIST. HAILAKANDI, ASSAM

2: KAMRUL ISLAM LASKAR
S/O LT. MOYNUL HAQUE LASKAR
R/O VILL- APPIN PT.II
P.O. APPIN

P.S.LALA
DIST. HAILAKANDI
ASSAM

3: NIZAM UDDIN LASKAR
S/O LT. ISHAK ALI LASKAR
R/O VILL- APPIN PT.II
P.O. APPIN

P.S.LALA
DIST. HAILAKANDI
ASSAM

4: NAZIM UDDIN LASKAR
S/O TAJMUL ALI LASKAR
R/O VILL- APPIN PT.II
P.O. APPIN

P.S.LALA
DIST. HAILAKANDI
ASSAM

5: KABIR AHMED LASKAR
S/ONIZAM UDDIN LAKSAR
R/O VILL- APPIN PT.II
P.O. APPIN

P.S.LALA
DIST. HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:AFJOL HUSSAIN BARBHUIYA
S/O ABDUL HASIM BARBHUIYA
R/O VILL- APPIN PT.II
P.O. APPIN

P.S.LALA
DIST. HAILAKANDI
ASSAM
PIN-78816

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 20-12-2023

1. Heard Mr. HRA Choudhury, learned Senior Counsel for the petitioners assisted by learned counsel Mr. M. Khan.
2. The petitioners, namely, [1] Badrul Islam Laskar [2] Kamrul Islam Laskar [3] Nizam Uddin Laskar [4] Nazim Uddin Laskar and [5] Kabir Ahmed Laskar have filed this application under Section 438 Cr.PC, with prayer for pre-arrest bail, as they are apprehending arrest in connection with Lala PS Case No. 274/2023, under Sections 120(B)/506 IPC, read with Section 4 of POCSO Act.

3. Heard Mr. D P Goswami, learned Additional Public Prosecutor for the State of Assam and Mr. Y. Barbhuiya, learned counsel for respondent No. 2.
4. Notices were issued to respondent No. 2.
5. I have considered the submissions at the Bar with circumspection.
6. It is submitted at the Bar that no case under the POCSO Act has been made out against the petitioners.
7. The FIR unfolds that the accused Jabir Ahmed has committed an offence under POCSO Act. It is submitted that the petitioners restrained the victim's parents from lodging an FIR against the accused Jabir Ahmed.
8. The learned Senior Counsel for the petitioners has submitted that the petitioners were willing to take action against the accused Jabir Ahmed but they were prevented by the victim's parents from taking action against the accused who has committed the offence under POCSO Act. The petitioners who are local residents are willing to co-operate with the investigation.
9. I have perused the Case Diary. The contents of the Case Diary are not brought to the fore at this juncture. I have considered the submissions that the petitioners are local residents and are willing to co-operate with the investigation. I have also considered the submissions that the petitioners are not liable under a POCSO Act.
10. Considering all aspects and in view of my foregoing discussions, petition is allowed. In the event of their arrest, the petitioners shall be enlarged on bail on furnishing bail bond of Rs. 50,000/- each with a suitable surety of the like amount to the satisfaction of the arresting authority under the conditions that:-
 - i) the petitioners shall appear before the IO within 10 (ten) days and cooperate with the investigation;
 - ii) the petitioners shall also co-operate with the trial; and
 - iii) the petitioners shall not tamper with the evidence or exercise threats to witnesses.

On breach of any of the bail conditions, bail order shall stand cancelled.

Send back the Case Diary.

JUDGE

Comparing Assistant