

GAHC010265282022



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

Case No. : AB/3804/2022

RASHID FAZAIL HUSSAIN AND ANR
S/O RAMJAN HUSSAIN
R/O A.K. AZAD ROAD,
WARD NO. 07, DHUBRI, P.S. AND DIST. DHUBRI, ASSAM

2: HAYAT RASHID HOQUE @ AYAT RASHID
S/O SHAHIDUL HOQUE
R/O A.K. AZAD ROAD
WARD NO. 07
DHUBRI
P.S. AND DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 19-01-2023

Heard Mr. M. Khan, learned counsel for the petitioners and Mr. M.P.

Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioners viz. [1] Rashid Fazail Hussain and [2] Hayat Rashid Hoque @ Ayat Rashid have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest, in connection with Dhubri Police Station Case no. 519/2022, registered for offences punishable under Sections 341/326/34, Indian Penal Code [IPC].

3. In the First Information Report [FIR], lodged on 30.10.2022, the informant has brought allegation against three accused persons viz. [1] Rashid Fazail Hussain [petitioner no. 1], [2] Mostafir Hussain and [3] Ayat Rashid [petitioner no. 2] of assaulting his brother, Arif Hussain at around 05-00 p.m. on 29.10.2022 at B.N. College Road, Ward no. 15.

4. The learned Additional Public Prosecutor who has received the case diary, has submitted that as per the statement of the victim, the victim and one of his friends were at the place of occurrence at the time of the alleged incident, and at that point of time, the accused persons appeared at the place and assaulted him. From the materials in the case diary, it has emerged that though the victim was along with one of his friends at the time of the alleged incident, it was the victim only who was assaulted by the accused persons, without making any attempt to assault the victim's companion. The version projected on behalf of the petitioners is that the victim used to disturb and cause harassment to one girl companion of the accused no. 2 named in the FIR. The same was the genesis of the scuffle occurred on the date of incident. The injury report of the victim goes to indicate that the injuries sustained by him was simple in nature,

but the same were caused by some light and sharp object and there is no material to suggest that the victim had undergone any prolonged medical treatment. The petitioner no. 1 is aged about 19 years whereas the petitioner no. 2 is aged about 20 years.

5. Having regard to the above facts and circumstances obtaining in the case and the materials in the case diary, I am of the considered view that custodial interrogation of the petitioners for the purpose of carrying out further investigation of the case is not necessary and their release on pre-arrest bail, at this stage of investigation, is not unlikely to bring any adverse effect in the further investigation of the case, provided the petitioners extend their assistance and co-operation in the further investigation of the case.

6. Accordingly, it is provided that in the event of arrest of the petitioners in connection with Dhubri Police Station Case no. 519/2022, he shall be released on bail on furnishing a bail bond of Rs. 25,000/- each with one local surety of the like amount each to the satisfaction of the arresting authority, subject to the conditions that :

[i] the petitioners shall appear before the Investigating Officer [I.O.] of the case within 7 [seven] days from today and shall co-operate with the investigation and shall thereafter, make themselves available for interrogation whenever required by the I.O. of the case;

[ii] the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

[iii] the petitioners shall not obstruct or hamper the police investigation and

not to play mischief with the evidence collected or yet to be collected by the police;

[iv] the petitioners shall maintain law and order and they shall not commit an offence similar to the offence of which they are accused, or of the commission of which they are suspected; and

[v] the petitioners shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

7. The bail application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant