

GAHC010267652022



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

Case No. : AB/3820/2022

NEHEMIAH MOCHAHARY AND 2 ORS
S/O. RIMAL MOCHAHARY, R/O. VILL. NO.2 BENGTOLE, P.O. BENGTOLE, P.S.
RUNKHATA, PIN-783394, DIST. CHIRANG, ASSAM.

2: RAJESH NARZARY

S/O. LT. DANDA NARZARY
R/O. VILL. NO.2 LADANGURI
P.O. LADANGURI
DIST. CHIRANG
PIN-783393
ASSAM.

3: KAGEN BASUMATARY

S/O. LT. BUDHBAR BASUMATARY
R/O. VILL. MUKTHAPUR
P.O. MALIVITHA
DIST. CHIRANG
PIN-7893393

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. R B GOHAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

27-06-2023

Heard Mr. R.B. Gohain, learned counsel for the petitioners and Mr. B. Sarma, learned Additional Public Prosecutor, Assam for the State.

By this application filed under Section 438 Cr.P.C., the petitioners, namely, **(i) Nehemiah Mochahary, (ii) Rajesh Narzary and (iii) Kagen Basumatary**, apprehending their arrest, are seeking pre-arrest bail in connection with Runikhata P.S.Case No. 54/2022 registered under Sections 326/325/34 IPC read with Section 27 of the Arms Act, 1959.

As per the FIR of the case dated 10.12.2022, on the night of 09.12.2022 around 10:00 pm, while the son of the complainant was coming from Dakhin Gaon, on his way, at Khungring, he was stopped by three miscreants who claimed to be NGO people i.e., the present petitioners and they assaulted her son with their rifles and without any reason, they shot at her son by their rifles in which her son was hit on his right leg (lap) and as he was seriously injured, had been hospitalized at JSB Hospital, Kajalgaon for immediate medical treatment. Accordingly, Runikhata P.S.Case No. 54/2022 was registered under Sections 326/325/34 IPC read with Section 27 of the Arms Act, 1959.

Perused the case diary placed before the Court today by Mr. Goswami, learned Additional Public Prosecutor, Assam.

The case diary reveals that on the day of the incident, a forest party with the persons of the concerned NGO were on patrolling duty and around 10:00 pm, the accused petitioners hiding themselves in a paddy field were guarding the road. The other persons from the said forest party were on the road parking their Bolero vehicle at different side of the area while a Tata Mobile van loaded with illegal sawn wooden logs was coming from the opposite side of the road and then the said forest party asked them to stop the said wooden loaded vehicle, as the said vehicle did not stop and fled away from the place with those illegal sawn wooden logs, the petitioner No. 1, Nehemiah Mochahary fired one round and it was not known whether anyone was injured by his rifle or not. However, the blank cartridge was recovered from the site that was fired by the arm of the petitioner

No. 1.

Considering the materials available in the case diary, the Court is of the view that the custodial interrogation of the petitioners are not warranted to investigate the said Runikhata P.S.Case No. 54/2022. As such, this pre-arrest bail application of the petitioners, named above, in said Runikhata P.S.Case is accepted.

The petitioners, namely, **(i) Nehemiah Mochahary, (ii) Rajesh Narzary and (iii) Kagen Basumatary**, are already on interim bail in said Runikhata P.S.Case No. 54/2022 granted to them earlier on 07.02.2023 and the same is hereby made absolute on the terms and conditions that the petitioners shall (i) appear before the Investigating Officer of Runikhata P.S.Case No. 54/2022, as and when they are required for necessary investigation of said Runikhata P.S.Case; (ii) not leave the territorial jurisdiction of the Runikhata Police Station, without obtaining prior written permission from the concerned Investigating Officer of the case; (iii) not hamper with the investigation, or tamper with the evidence of the case and (iv) not, directly or indirectly, make any inducement, threat to the complainant or anyone of her family members or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer.

With the above observation and directions, this pre-arrest bail application of the petitioners accordingly stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant