

GAHC010281002023



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

Case No. : AB/4214/2023

1. LIAKAT ALI AND ANR,
S/O ABDUL JALIK R/O VILL. TARANGAJHAR P. JAMADARHAT P.S.
FAKIRGANJ DIST. DHUBRI ASSAM PIN 783330

2: HABIZUR ISLAM @ HABIZUR RAHMAN MONDAL,
S/O ABDUL JALIL R/O VILL. TARANGAJHAR P. JAMADARHAT P.S.
FAKIRGANJ DIST. DHUBRI ASSAM PIN 78333

-VERSUS-

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. H ALI

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

15.12.2023

Heard Mr. H. Ali, learned counsel for the petitioners. Also heard Mr. K.K. Parashar, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, (1) Liakat Ali and (2) Habizur Islam @ Habizur Rahman Mondal, who are apprehending their arrest in connection with Fakirganj P.S.

Case No.106/2023 under Sections 147/148/149/326/307/34 of the Indian Penal Code. The gist of accusation against the present petitioners in this case is that on 05.06.2023, one Abdur Rezzak lodged an FIR before the Officer-in-Charge of Fakirganj Police Station, *inter-alia*, alleging that on 04.06.2023, at about 8.00 pm, one co-accused Eusuf Ali Mondal had some argument with the first informant with regard to a theft which was committed by some person in the house of the first informant. The petitioners, later on, at about 8.00 pm, on the same day assaulted the first informant with iron rod, khurki, deggar and other weapons.

Mr. H. Ali, learned counsel for the petitioners has submitted that though it is alleged in the FIR that the petitioners had assaulted the first informant with iron rod, khurki, deggar and other weapons, however, from the injury report which was perused by this Court earlier while dealing with Anticipatory Bail Application, AB No.3260/2023 in connection with the co-accused, it was clearly observed by this Court that the victim sustained only simple injuries caused by blunt object.

Learned counsel for the petitioners has further submitted that same observations have been made by the Court of learned Judicial Magistrate First Class, Dhubri in his order dated 26.06.2023 passed in G.R. Case No.1010/2023 while he was considering the bail application of the another co-accused, namely, Abdul Hasem Ali.

Learned counsel for the petitioners has further submitted that out of 5(five) accused persons named in the FIR, 2(two) of the accused persons, namely, Abdul Jalil and Md. Eusof Ali were granted bail by this Court whereas accused Abdul Hasem was allowed to go on bail by the Court of learned Judicial Magistrate First Class, Dhubri. In view of above, learned counsel for the petitioners prays that the prayer for anticipatory bail made by the petitioners may be allowed.

On the other hand, Mr. K.K. Parashar, learned Additional Public Prosecutor, Assam has also fairly submitted that though in the FIR, use of deadly weapons has been mentioned by the informant, however, from the observations made by this Court as well as the Court of learned Judicial Magistrate First Class, Dhubri, it is clear that

the injuries sustained by the victim are of simple nature, caused by blunt object and under such circumstances, custodial detention of the present petitioners may not be necessary.

In view of the submissions made by the learned counsel for the petitioners as well as the learned Additional Public Prosecutor, Assam and also considering the fact that the petitioners and the victim are neighbours and the victim sustained only simple injuries, the custodial detention of the present petitioners does not appear to be necessary if they otherwise co-operate in the investigation.

Hence, the present petitioners, namely, (1) Liakat Ali and (2) Habizur Islam @ Habizur Rahman Mondal are hereby directed to appear before the Investigating Officer of Fakirganj P.S. Case No.106/2023 within 10(ten) days from the date of this order and co-operate in the investigation.

If the above named petitioners do so within the stipulated period of time, in the event of their arrest in connection with Fakirganj P.S. Case No.106/2023, they shall be allowed to go on bail of Rs.30,000/- (Rupees thirty thousand) each with one suitable surety of like amount, subject to the satisfaction of the arresting authority with the following conditions :-

- (i) that the petitioners shall co-operate in the investigation;
- (ii) that the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

With the above observations and directions, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant