

GAHC010000622024



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

Case No. : AB/21/2024

ALAUDDIN AHMED AND 6 ORS
S/O FULAR UDDIN
R/O VILL- SONAIKHOLA, P.S. MANIKPUR,
DIST. BONGAIGAON, ASSAM
PIN-783392

2: FAKIR ALI
S/OGABRA DEWANI
R/O VILL- SONAIKHOLA
P.S. MANIKPUR

DIST. BONGAIGAON
ASSAM
PIN-783392

3: HANIF ALI
S/O FAJAR ALI
R/O VILL- SONAIKHOLA
P.S. MANIKPUR

DIST. BONGAIGAON
ASSAM
PIN-783392

4: ABUL KALAM MAHMUD
S/O TASER ALI
R/O VILL- SONAIKHOLA
P.S. MANIKPUR

DIST. BONGAIGAON
ASSAM
PIN-783392

5: AMIR HAMJA

S/O AMJAT ALI
R/O VILL- SONAIKHOLA
P.S. MANIKPUR

DIST. BONGAIGAON
ASSAM
PIN-783392

6: RAFIKUL ISLAM
S/O ABDUR RASHID
R/O VILL- SONAIKHOLA
P.S. MANIKPUR

DIST. BONGAIGAON
ASSAM
PIN-783392

7: JOMIR MAHMUD
S/O INSAN ALI MAHMUD
R/O VILL- SONAIKHOLA
P.S. MANIKPUR

DIST. BONGAIGAON
ASSAM
PIN-78339

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

2:ASEDA BEGUM
D/O - NUR ISLAM
R/O - VILL - SONAIKHOLA
PS - MANIKPUR
DIST - BONGAIGAON
ASSAM
PIN - 78339

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

24.01.2024

Heard Mr. SC Biswas, learned counsel for the petitioners. Also heard Mr. K.K. Parashar, learned Addl. P.P, Assam for the State.

This is an application under Section 438 of the Code of the Criminal Procedure, 1973 seeking pre-arrest bail in favour of the accused/petitioners, namely Alauddin Ahmed, Fakir Ali, Hanif Ali, Abul Kalam Mahmud, Amir Hamja, Rafikul Islam and Jomir Mahmud in connection with Manikpur P.S. Case No. 222/2023 corresponding to G.R. Case No. 890/2023 under Section 366/376/420/506 IPC.

The case of the prosecution is that the accused/petitioner Nos. 3 & 5 have kidnapped the informant and took him to the house of the accused/petitioner No. 3 and thereafter, accused/petitioner No. 1 committed raped with her in the house of the accused/petitioner No. 3. It was further alleged that accused/petitioner No. 2 in association with the other accused took 70,000/- from accused/petitioner No. 1 and paid Rs. 9,500/- to her. Accordingly, a case was registered. Apprehending arrest, the instant anticipatory bail application has been filed by the accused named in the said FIR.

Mr. SC Biswas, learned counsel for the petitioners submits that the acquisitions are totally false and the petitioners are ready to cooperate with the investigation.

Mr. K.K. Parashar, learned Addl. P.P on the other hand strongly opposes to the prayer for pre-arrest bail. He submits that on the basis of the Case Diary received that the informant's statement under Section 164 Cr.PC has been recorded and that the informant stands by the allegation made in the FIR.

I have considered the submissions made at the bar and have perused the materials available on record.

It appears from the Case Diary that no adverse materials are available against the accused/petitioner No. 2, i.e., Fakir Ali, accused/petitioner No. 4, i.e., Abul Kalam Mahmud, accused/petitioner No. 6, i.e., Rafikul Islam and accused/petitioner No. 7, i.e., Jomir Mahmud. Further, it appears that the accused/petitioner Nos. 3 & 5 have kidnapped the informant and constrained her in the house of accused/petitioner No. 3. It is submitted at the bar that the said accused/petitioner Nos. 2, 3, 4, 5, 6 & 7 are ready and willing to cooperate with the investigation.

As such, this Court is inclined to grant pre-arrest bail to the aforesaid petitioners. Accordingly, in the event of the arrest, the petitioners namely, Fakir Ali, Hanif Ali, Abul Kalam Mahmud, Amir Hamja, Rafikul Islam and Jomir Mahmud are granted pre-arrest bail in connection with the above noted case on furnishing bail bond of Rs. 15,000/- with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:-

- (i) That the petitioner shall appear before the Investigating Officer within 10 days, failing which on and from the 11th day, the interim pre-arrest bail order shall have no force;

- (ii) That the petitioner 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 petitioner shall refrain from committing any similar offences in future of which he is accused or suspected of commission.

However, it appears from the Case Diary placed before this Court that there are sufficient materials available on record, as regards accused/petitioner No. 1, i.e., Alauddin Ahmed implicating him of the offence alleged.

In view of the same, this Court is not inclined to grant pre-arrest bail to the accused/petitioner No. 1 at this stage. Accordingly, the prayer for granting pre-arrest bail to the accused/petitioner No. 1 is rejected.

With the above observation, the application stands disposed of.

JUDGE

Comparing Assistant