

GAHC010000722024



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

Case No. : AB/63/2024

ABHIGYAN DUTTA AND 4 ORS
S/O GUNJA NATH DUTTA
R/O PACHIM BONGAL PUKHURI
JAYANAGAR, P.O.AND P.S. JORHAT,
IN THE DISTRICT OF JORHAT, ASSAM

2: ZAKARIA HAZARIKA
S/O RASIDULLAH HAZARIKA
R/O RANGHAR CHARIALI
NA-ALI
IN THE DISTRICT OF SIVASAGAR
ASSAM

3: PATHO PROTIM MURMU
S/O DIMBULAL MURMU
R/O MOHMAIKI GAON (2)
P.O. AND P.S. BOKAKHAT
IN THE DISTRICT OF GOLAGHAT
ASSAM

4: SUHAIL AHMED
S/O AMIRUL AHMED
R/O JULAGAON
JOYSAGAR
IN THE DISTRICT OF SIVASAGAR
ASSAM

5: HRISIKESH BORUAH
S/O TANKESWAR BORUAH
R/O MOHMAIKI GAON (PART-II)
BOKAKHAT IN THE DISTRICT OF GOLAGHAT
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B HALDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 22.01.2024

Heard Mr. B. Haldar, learned counsel appearing for the petitioners. Also Heard Mr. K. K. Parasar, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **1. Abhigyan Dutta, 2. Zakaria Hazarika, 3. Partho Protim Murmu, 4. Suhail Ahmed, 5. Hrisikesh Boruah**, apprehending arrest in connection with **Bogijan P.S. Case No. 19/2023** registered u/s **341/395/397/427** of the IPC.

The case of the prosecution is that on 22.04.2023, while the informant was returning from Santipur, Karbi Anglong to Golaghat, via Nambor Forest on his vehicle, 5 unknown miscreants obstructed his way by blocking the way with one vehicle, bearing registration No. AS 03AG 8483 and assaulted him and, thereafter, robbed him. Accordingly, a case was registered.

Mr. Haldar submits that the vehicle bearing registration No. AS 03AG 8483 is registered in the name of the mother of the petitioner No. 1. In the night of 22.04.2023, when the petitioner No. 1 along with petitioner Nos. 2, 3, 4 and 5 were going towards Golaghat from Karbi Anglong, they met with an accident by hitting the informant's car and, thereafter, some altercation took place between them. Since the

informant has lodged the present FIR, the petitioners are now apprehending that they may be roped in the present investigation and, as such, they have applied for pre-arrest bail. He further submits that the allegations made in the FIR regarding stealing away Rs.40,000/- and a mobile phone from the informant are totally false and that the petitioners are innocent and belongs to reputed family and are teenage boys having no criminal antecedent.

Mr. Parasar, learned Addl. P.P., opposed the prayer of the pre-arrest bail and submits that the investigation is at the initial stage. Further, on the basis of the statement of the mother of the petitioner No. 1 recorded under Section 161 Cr.P.C., he submits that the petitioner No. 1, who was at the rehabilitation centre, had gone out in the night of the incident and neither he came back to the rehabilitation centre nor returned to his home at that night.

I have considered the submissions made at the Bar and have also perused the materials available on record including the case diary.

From the case diary, it appears that the Investigating Officer has not yet collected any adverse materials as regards the petitioners showing their involvement in the alleged offence. The statement of the mother of the petitioner No. 1 is not conclusive of the fact that the petitioner No. 1 has participated in the offence in hand. Since the investigation is going on and the petitioners are willing to co-operate, this Court is inclined to grant the petitioners the privilege of pre-arrest bail.

Accordingly, it is provided that in the event of arrest, the petitioners, named above, shall be released on pre-arrest bail, in connection with the above noted case on furnishing bail bond of **Rs. 20,000/- each** with one surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

- (i) That the petitioners shall appear before the Investigating Officer within 7 days;
- (ii) That the petitioners shall not hamper or tamper with the investigation

in any manner; and

- (iii) That the petitioners 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.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant