

GAHC010003982024



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

Case No. : AB/79/2024

MD ABDUL RAFIQUE @ ABDUL RAFIK KHAN AND ANR
SON OF LATE SAFIUL HUSSAIN, RESIDENT OF NIMONAGARH, BOKAJAN
BAZAR, KARBI ANGLONG, POLICE STATION- MATHURAPUR, DISTRICT-
CHARAIDEO, ASSAM, PIN- 785689

2: MD. SAKIL HUSSAIN
SON OF MD. ABDUL RAFIQUE
RESIDENT OF NIMONAGARH
BOKAJAN BAZAR
KARBI ANGLONG
POLICE STATION- MATHURAPUR
DISTRICT- CHARAIDEO
ASSAM
PIN- 78568

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR U SAIKIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 19-01-2024

Heard Mr. N. Mili, learned counsel for the applicants and also heard Mr. R. J. Baruah, learned Addl. P.P. for the State respondent.

This application, under Section 438 Cr.P.C. is preferred by two applicants, namely, Md. Abdul Rafique @Abdul Rafik Khan and 2. Md. Sakil Hussain who have been apprehending arrest in connection with Mathurapur P.S. Case No. 50/2023, under Section 420/406/294/506 IPC, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR lodged by one Dheeraj Sony on 24.11.2023.

The essence of allegation made in the FIR dated 24.11.2023 is that the applicant No.2 had hired one vehicle bearing registration No. JH-17-N 1321 on the condition that they will pay EMI @ 45,000/- per month but after paying one installment of Rs. 45,000/-, the applicant No.2 stopped payment of the EMI and when he went to the house of the applicant No.2, Sakil Hussain, then his father Abdul Rafique, applicant No.1 physically assaulted him and using filthy language told that he will not pay any EMI of the vehicle and kept the vehicle concealed.

Mr. Mili, learned counsel for the applicants submits that the allegation made in the FIR are vague and referring to the bank statement, annexed to the petition as Annexure-B, learned counsel for the applicants submits that the applicants have made payment of amount on different dates and that the vehicle has already been recovered from their possession and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. Barua learned Addl. P.P. submits that he has received the case diary but, the I.O could not achieve much headway in the investigation of the case, as because the informant has not been cooperating with the investigating agency and he has not produced any document of the vehicle concerned.

Having heard the submissions of learned Advocates for both sides, I have carefully gone through the petition and documents available on record and also perused the case diary with the assistance of Mr. Barua, learned Addl. P.P. In view of the materials collected so far in the case diary and also considering the submission of learned Advocates of both sides , this Court is of the prima facie view that a case for granting the privilege of pre-arrest bail is made out in favour of the applicants. And accordingly, it is provided that in the event of arrest of the applicants, in connection with Mathurapur P.S. Case No. 50/2023, under Sections 420/406/294/506 IPC, they shall be released on pre arrest bail on their executing a bond of Rs.50,000/ each with one surety of like amount to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

1. That the applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
2. That the applicants 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
3. That the applicants shall not leave the jurisdiction of the learned Chief Judicial Magistrate, Charaideo, without prior permission.

In terms of above, this A.B stands disposed of .

Case diary be returned.

JUDGE

Comparing Assistant