

GAHC010004312024



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

Case No. : AB/56/2024

MD NAUSAD ALI AND 2 ORS
S/O ISMALI ALI
R/O VILL- 1 BASASIMALU, P.O. FARSIPAM
P.S. DHEKIAJULI
DIST. SONITPUR, ASSAM

2: MD. MAIDAN ALI
S/O MANDAL ALI
R/O VILL- 1 BASASIMALU
P.O. FARSIPAM
P.S. DHEKIAJULI
DIST. SONITPUR
ASSAM

3: MD. AMIR HANJE @ AMIR HAMJA
S/O MD. MAIDAN ALI
R/O VILL- 1 BASASIMALU
P.O. FARSIPAM
P.S. DHEKIAJULI
DIST. SONITPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 22-01-2024

Heard Mr. P.Das, learned counsel for the applicants. Also heard Mr. B. Sarma, learned Addl. P.P. for the State respondent.

Apprehending arrest in connection with Dhekiajuli P.S. Case No. 143/2023, under Sections 365/34 IPC, this application, under Section 438 Cr.P.C. is preferred by the applicants, namely, 1. Md. Nausad Ali, 2. Md Maidan Ali and 3. Md Amir Hanje @ Amir Hamja, for grant of pre-arrest bail.

The above noted case has been registered on the basis of an FIR, lodged by one Imran Ali on 01.08.2023.

The essence of allegation made in the FIR dtd. 01.08.2023 is that since 17.02.2023 his son Mahir Ali aged 14 years is missing and in connection with the same, he had lodge one ejahar with Singri Out Post on 20.02.2023 and on the basis of said FIR, police taken Nausad Ali, Maidan Ali and Amir Hanje to the police station and after keeping them for three days in the Police Station, they were let off by the police officer and since then no enquiry has been made and in the event of any request being made to them, they threatened to kidnap and cause him disappear .

Mr. Das, learned counsel for the applicants submitted that the applicants are innocent and no way involved with the offence alleged in the FIR and the informant is not the biological father of the missing boy and as per his instruction, the victim boy was subjected to torture by the informant and therefore, he has fled away and that the applicants are ready to cooperate with

the investigating agency and therefore, it is contended to allow the petition.

Whereas, Mr. B. Sarma, learned Addl. P. P. submits that the investigation is in nascent stage, as per the case diary received by him and the victim boy is yet to be recovered and the custodial interrogation of the applicants are necessary herein this case and therefore, Mr. Sarma contended to dismiss the petition.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. B. Sarma, learned Addl. P.P.

Indisputably the victim has not yet been recovered. Investigation is also been nascent stage and in that view of the matter, it cannot be said that custodial interrogation of the applicants are not required in the interest of investigation.

Their custodial interrogation are indispensable to recover the victim boy and accordingly, this Court is of the view that this is not a fit case where privilege of pre arrest bail can be granted to the applicants and accordingly, the bail petition stands dismissed,

Case diary be returned.

JUDGE

Comparing Assistant