

GAHC010005212024



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

Case No. : AB/105/2024

SAFIQUL ISLAM AND 4 ORS
SON OF SIDDIQUE ALI, VILLAGE- BHEHUGURI, P.S. MIKIRBHETA, DIST.-
MORIGAON, ASSAM, PIN- 782123

2: FAKAR UDDIN
SON OF SIDDIQUE ALI
VILLAGE- BHEHUGURI
P.S. MIKIRBHETA
DIST.- MORIGAON
ASSAM
PIN- 782123

3: ROFIQUL ISLAM
SON OF SIDDIQUE ALI
VILLAGE- BHEHUGURI
P.S. MIKIRBHETA
DIST.- MORIGAON
ASSAM
PIN- 782123

4: AIZUL HOQUE
SON OF SIDDIQUE ALI
VILLAGE- BHEHUGURI
P.S. MIKIRBHETA
DIST.- MORIGAON
ASSAM
PIN- 782123

5: JIARUL HOQUE
SON OF LATE ABDUL REZZAK
VILLAGE- KOLMOUBARI
P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM

PIN- 78212

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

02.02.2024

Heard Mr. A.M. Ahmed, learned counsel appearing for the petitioners. Also heard Ms. N. Das, learned Addl. P.P., Assam appearing for the State respondent and Mr. J. Ali, learned counsel for the informant.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for seeking pre-arrest bail to the accused/petitioners, namely, **Safiqul Islam, Fakar Uddin, Rofiqul Islam, Aizul Hoque and Jiarul Hoque**, who are apprehending arrest in connection with **Mikirbheta P.S. Case No. 251/2023** under Sections **148/341/326/352/307** of the Indian Penal Code, 1860.

3. The allegations made in the FIR dated 11.12.2023 in a nutshell is that on 10.12.2023 at about 6.30 A.M., while the informant's father-in-law was going towards Golkata Bazar from Behuguri village, the accused persons of

Bhehuguri gave a blow to him with a sharp weapon (Dagar) as a result of which, he sustained grievous injuries on his head and he fell down. It is further alleged that the informant's brother-in-law was also assaulted.

4. Mr. A. Ahmed, learned counsel for the petitioner submits that the allegations made in the said FIR are false and that the accused/petitioners have been falsely implicated.

5. He further submits that the actual fact of the case is that the petitioners/accused are innocent and falsely implicated in the case. He further submits that the actual fact of the case is that the informant side who are the co-villagers of the petitioners/accused by entering in to conspiracy and in order to grab the fishery of the petitioners/accused constructed a CI Shed (Sali) on the bank of the fishery illegally at night. Later on, the petitioners/accused in the morning came to see that a shed was constructed on the bank of their fishery without their knowledge and as such they went there to dismantle the said shed which was illegally constructed by the informant side to occupy the fishery illegally. Thereafter, when the petitioners/accused were dismantling the shed, the informant side being the aggressor armed with sharp weapons and lathis attacked the petitioners/accused brutally and with dagger to Rofiquil Islam causing grievous injuries on his head whereupon he was treated by giving 30 stitches on his head by the doctor and also assaulted Faker Uddin and broke his left shoulder. He further submits that the informant side to cover up their case lodged the instant case falsely by implicating the petitioners/accused in the instant case. He further submits that the petitioners/accused side also lodged a case with regard to the said incident but the police being influence by the informant side registered the case subsequently at later point of time being Mikirbheta P.S Case No.252/2023 U/S 148/341/352/326/307 IPC.

6. Ms. N. Das, learned Addl. P.P. on the other hand strongly opposes the prayer for pre-arrest bail. She further submits on the basis of the materials available in the case diary that there are sufficient materials implicating the accused/petitioners of the offence alleged. She further submits that the injury report indicates that the victim has been grievously and in a gruesome manner assaulted.
7. I have heard the submissions made at the Bar and I have perused the case diary materials available on record.
8. The investigation appears to be in an active stage, which requires to be completed in a fair manner.
9. Considering the manner in which, the blow have been inflicted on the victim and also considering the totality of the matter, this Court is not inclined to grant anticipatory bail to the petitioners/accused at this stage.
10. Accordingly, this anticipatory bail application stands rejected.

Send back the case diary.

JUDGE

Comparing Assistant