

GAHC010006042024



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

Case No. : AB/143/2024

FAKKARUDDIN AND ANR
S/O- LT. ABDUL SAFIK, R/O- KHAKALBANGI, JOGIGAON, P.S. DALGAON,
DISTRICT- DARRANG (ASSAM)

2: AINUDDIN
S/O- LT. ABDUL SAFIK
R/O- KHAKALBANGI
JOGIGAON
P.S. DALGAON
DISTRICT- DARRANG (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

08.02.2024

Heard Mr. M. Ahmed, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Dalgaon P.S. Case No. 315/2023 under Sections 447/294/326/34 added Section 302 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mr. Ahmed, that the present petitioners are innocent and they are not at all involved in the alleged offence. It is contended by the petitioners that there was a land dispute and thereby, altercation took place between both the parties, which accordingly turn into a mutual marpit. As a result of which, the persons of petitioners side and informant side sustained injuries and to that effect a counter First Information Report(FIR) has been filed by the petitioners side against the informant. Further, the accused/petitioners are still ready and willing to co-operate with the I.O. in further investigation of the case, if they are granted the privilege of interim pre-arrest bail.

In this context, Mr. Parasar, learned Additional Public Prosecutor has submitted that on perusal of the Case Diary, it is seen that these 2(two) petitioners are fully involved in the alleged offence. He also submits that there was a group fight between

the accused petitioners and informant side; they also assaulted the deceased/victim for which he succumbed to injuries. In this regard, the learned Additional Public Prosecutor raised objection in granting pre-arrest bail to the accused petitioners.

Considering the submissions of learned counsels of both sides as well as the materials available in the Case Diary, and also considering the entire facts and circumstances of the case, I find that custodial interrogation of the present accused/petitioners are not necessary in this case and therefore, I find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioners.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, 1. **Fakkaruddin** and 2. **Ainuddin**, in connection with Dalgaon P.S. Case No. 315/2023 under Sections 447/294/326/34/302 of the Indian Penal Code, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the Investigating Officer within 7(seven) from today.
- (ii) 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 them from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioners shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant