

GAHC010008322024



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

Case No. : AB/123/2024

RAKIDUL ISLAM AND 5 ORS
S/O SAHAM UDDIN @ MAHAMUDDIN
R/O PANBARI
P.S. DHING
DIST. NAGAON, ASSAM

2: SAHAM UDDIN @ MAHAMUDDIN
S/O NEKBAR ALI
R/O PANBARI
P.S. DHING
DIST. NAGAON
ASSAM

3: NURBANU KHATUN @ NURBNU BEGUM
W/O ABDUL JALIL
R/O PANBARI
P.S. DHING
DIST. NAGAON
ASSAM

4: NEKIBUR RAHMAN
S/O ABDUL JALIL
R/O PANBARI
P.S. DHING
DIST. NAGAON
ASSAM

5: HAZRAT ALI
S/O RAMJAN ALI
R/O PANBARI
P.S. DHING
DIST. NAGAON
ASSAM

6: ELIZA KHATUN @ ELIZA BEGUM
W/O HAZRAT ALI
R/O PANBARI
P.S. DHING
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER

08.02.2024

Heard Mr. A. Ahmed, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Moirabari P.S. Case No. 253/2023, under Sections 366/34 of the Indian Penal Code.

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

It is submitted by Mr. Ahmed, learned counsel for the petitioners, that all the

accused/petitioners are being implicated in this case with false and concocted allegation. However, it is a fact that the victim had a love affair with the accused/petitioner No. 1- Rakidul Islam and they were suppose to get married with each other and the victim girl came to the house of the accused/petitioner No. 1 and when the other family members of the petitioner No. 1 informed the parents of the victim and when the victim returned back to her own house, then only the F.I.R. was lodged against the present accused/petitioners. The accused/petitioner Nos. 3 & 6 were already granted with the privilege of interim pre-arrest bail by this Court and in pursuant to the said order, they have already appeared before the I.O. and their statements are already been recorded under Section 161 Cr.P.C. All the accused/petitioners are ready and willing to co-operate with the I.O. in the further investigation of this case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that the accused/petitioner Nos. 3 & 6 have already appeared before the I.O. and their statements were also recorded and thus, they are co-operating with the I.O. in the investigation of the case. Further he submitted that the victim implicated only the accused petitioner Nos. 1 & 4- Rakidul Islam and Nekibur Rahman, respectively, in this case, however, she made common implication against the other accused petitioners.

Considering the submissions made by the learned counsels for both sides and also considering the materials available in the Case Diary as well as the statement of the victim recorded under Section 164 Cr.P.C., I find that custodial interrogation of the accused/petitioners are not necessary in this case and accordingly, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners. Accordingly, the interim pre-arrest bail order, granted to the accused/petitioner Nos. 3 & 6, vide order dated 12.01.2024, is hereby made absolute with the same terms and conditions.

Further, it is provided that that in the event of arrest of the accused/petitioners, namely, (i) Rakidul Islam, (ii) Saham Uddin @ Mahamuddin, (iii) Nekibur Rahman, (iv) Hazrat Ali, in connection with Moirabari P.S. Case No. 253/2023, under Sections 366/34 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 appear before the Investigating Officer of the case within a period of 7 (seven) days from today;
- (ii) that the petitioners shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; 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.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant