

GAHC010009162024



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

Case No. : AB/140/2024

NOZRUL ISLAM @ NAZRUL ISLAM AND 3 ORS
S/O LATE GOLAM HUSSAIN
A RESIDENT OF VILL- BHURAKATA
P.S. MANKACHAR,
P.O. RADHAMADHAB HAT,
DIST. SOUTH SALMARA, MANKACHAR, ASSAM

2: RAKIB HOSSAIN @ RAKIB HUSSAIN
S/O NOZRUL ISLAM @ NAZRUL ISLAM
A RESIDENT OF VILL- BHURAKATA
P.S. MANKACHAR

P.O. RADHAMADHAB HAT

P.S. MANKACHAR
DIST. SOUTH SALMARA- MANKACHAR
ASSAM

3: ELIAS ALI @ KACHU SK.
S/O NOZRUL ISLAM @ NAZRUL ISLAM
A RESIDENT OF VILL- BHURAKATA
P.S. MANKACHAR

P.O. RADHAMADHAB HAT

DIST. SOUTH SALMARA- MANKACHAR
ASSAM

4: ZAIDUL ISLAM
S/O BADIAT ZAMAL
A RESIDENT OF VILL- BHURAKATA
P.S. MANKACHAR

P.O. RADHAMADHAB HAT

DIST. SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 01-02-2024

Heard Mr. M. A. I. Hussain, learned counsel for the applicants. Also heard Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent

Apprehending arrest in connection with Mankachar P.S. Case No. 428/2023, under Sections 12/14/15 of the Assam Game and Betting Act, 1970, read with Sections 353/506 of the IPC, this application under Section 438 Cr.P.C. has been preferred by four applicants, namely, 1. Nozrul Islam @ Nazrul Islam 2. Rakib Hossain @ Rakib Hussain, 3. Elias Ali @ Kachu Sk and 4. Zaidul Islam for grant of pre-arrest bail.

It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by ASI Jaynal Abedin of Kalapani Outpost on 22.11.2023. The essence of allegation made in the FIR dated 22.11.2023, is that acting on a tip off, the informant along with other police officials conducted search in the areca nuts factory of Sahidur Islam, situated at village Bhurakata, and

apprehended one person, namely, Ali Hussain while he was playing cards with some other persons, namely, Zaidul Islam, Nazrul Islam, Rakib Hussain and Kacchu Sk, and recovered two packets of playing cards from the possession of Ali Hussain and also recovered a sum of Rs. 1500/- from his possession and seized the same in present of witnesses.

Mr. Hussain, learned counsel for the applicants submits that the applicants are innocent and no way involved with the offence alleged in the FIR and they are ready to cooperate with the investigating agency. Therefore, it is contended to allow the petition.

Whereas, Mr. B. Sarma, learned Addl. P.P. has produced the case diary before this Court and submits that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, Mr. Sarma contended to dismiss the petition.

Having heard the submission of learned Advocates of both sides, I have carefully perused the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Addl. P.P. It appears that the I.O. has collected some incriminating materials against the applicants. But having regards to the nature and gravity of the offence and the punishment prescribed for the same and also in view of the submission of the Advocates of both sides, custodial interrogation of the applicants seems to be not warranted herein this case and therefore, this Court is inclined to extend the privilege of pre-arrest bail to the applicants.

It is provided that in the event of arrest of the applicants, in connection with Mankachar P.S. Case No. 428/2023, under Sections 12/14/15 of the Assam Game and Betting Act, 1970, read with Sections 353/506 of the IPC, they shall be released on pre arrest bail on their executing a bond of Rs.50,000/- eachwith

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 them 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 CJM, South Salmara, Mankachar without prior permission.

JUDGE

Comparing Assistant