

GAHC010016022024



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

Case No. : AB/195/2024

BIKRAM BARMAN AND ANR
S/O NITYALAL BARMAN
VILL MADAIKHALI PO ASHARIKANDI
PS GAURIPUR DIST DHUBRI, ASSAM

2: BIKASH DAS
S/O BHABATOSH DAS
R/O WARD NO. 4

BONGAIGAON TOWN

P.O. AND DIST. BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY PP, GOVT. OF ASSAM

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

06.02.2024

Heard Ms. R. Choudhury, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned 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/petitioners, who are apprehending arrest in connection with Gauripur P.S. Case No. 428/2023, under Sections 120(B)/325/326/307 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, Ms. Choudhury, that the petitioners are not involved in the alleged offence and their names are not been mentioned in the FIR. It is contended by the petitioners one Sanjib Barman is the FIR named accused. He has also submitted that the FIR was lodged at the instance of the victim/injured. Further, from the statement made in the FIR, it is seen that the accused Sanjib Barman was with the victim at the relevant time of the incident and he brought a clear allegation against the present petitioners. It is a fact that there was some altercation and quarrel between the two groups and subsequently, the situation was worsened and converted into mutual marpit. The petitioners interfered into the matter and took Tapash Ghosh to his residence and thereafter they cannot say what happened on the next day. Further, she submits that the petitioners are innocent and not all involved in the alleged incident, however, there is an apprehension that they may be arrested in connection with this case as they are the relative of one Tapash Ghosh. Further, both the petitioners are ready and willing to co-operate with the I.O. for investigation of the case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. Borthakur, learned Public Prosecutor has submitted that there are sufficient incriminating materials available against the present petitioners. Also, the statement of the victim reveals that they are fully involved in the alleged offence and helped the prime accused to take the victim in the railway track. The I.O. has submitted the Medical Report which reveals that the victim has sustained grievous injury on his both legs and he is still under treatment at G.M.C.H hospital. Further, he submits that the custodial interrogations of the present petitioners are necessary for the interest of proper investigation and accordingly, he raised objections in granting pre-arrest bail to the accused petitioners.

Considering the nature and gravity of the offence, I find that custodial interrogation of the accused/petitioners may be necessary to unearth some more facts of the case and accordingly, I am of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the accused/petitioners at this stage and accordingly, the same stands rejected.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant