

GAHC010016112024



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

Case No. : AB/224/2024

HASEN ALI AND 4 ORS.

S/O- LT. NEDU SK. @ NEDU JODDAR, RESIDENT OF VILLAGE-
DAYERCHAR, P.O. FEKAMARI, P.S. SOUTH SALMARA, DIST.- SOUTH
SALMARA MANKACHAR, ASSAM, PIN- 783135

2: ABDUL SALAM @ ABDUL SALAM SK
S/O- HASEN ALI
RESIDENT OF VILLAGE- DAYERCHAR
P.O. FEKAMARI
P.S. SOUTH SALMARA
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135

3: ABDUL HAMED
S/O- HASEN ALI
RESIDENT OF VILLAGE- DAYERCHAR
P.O. FEKAMARI
P.S. SOUTH SALMARA
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135

4: ANOWAR ISLAM
S/O- HASEN ALI
RESIDENT OF VILLAGE- DAYERCHAR
P.O. FEKAMARI
P.S. SOUTH SALMARA
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 783135

5: AMINUL ISLAM
S/O- ABDUL HAMED

RESIDENT OF VILLAGE- DAYERCHAR
P.O. FEKAMARI
P.S. SOUTH SALMARA
DIST.- SOUTH SALMARA MANKACHAR
ASSAM
PIN- 78313

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LD. P.P., ASSAM

Advocate for the Petitioner : MR. M HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 21.02.2024

Heard Mr. MR Khandakar, learned counsel for the petitioners and Mr. KK Das, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 438 Cr.P.C., filed by the petitioners, praying for pre- arrest bail who are apprehending arrest in connection with South Salmara (SSM) P.S. Case No. 06/2024 (Corresponding to GR Case No. 15/2024) registered under Sections 147/ 447/ 325/ 326/ 307/ 506 IPC.

The case diary is received and perused.

Heard both sides.

It is submitted by the learned counsel for the petitioners that there was a land dispute between the parties and out of the said land dispute, there was quarrel and scuffles between the parties and both parties sustained injury and the accused persons have lodged cross case against the informant's side also. However, the petitioners are ready and willing to cooperate with the I.O., if they are enlarged on pre-arrest bail.

In this context, Mr. KK Das, learned Addl. PP has submitted that as per the medical report, it is seen that the victim sustained grievous head injury and she was hospitalized and thereafter she got released from the hospital. He further submits that except petitioner No. 1, Hasen Ali, the petitioner Nos. 2, 3, 4 and 5 are involved with the alleged offence. There is no incriminating materials against the accused/ petitioner No. 1. Therefore, he has no objection for granting the privilege of pre-arrest bail in favour of the petitioner No. 1, Hasen Ali but in respect of the rest of the petitioners i.e. petitioner Nos. 2, 3, 4 and 5, who are very much involved with the alleged offence and he has raised objection in granting the benefit of pre-arrest bail to the petitioner Nos. 2, 3, 4 and 5.

I have considered the submissions of the learned counsel for the parties and other aspects of the case. On perusal of the record and the case diary, it is seen that the victim is released from the hospital, so considering the matter in its entirety, I find that custodial interrogation may not be necessary for the purpose of investigation. Accordingly, I find that it is a fit case to extend the benefit of pre-arrest bail to all the petitioners. However, some conditions which are to be abide by, by the petitioners.

Accordingly, it is directed that in the event of arrest of the petitioners in connection with the aforesaid case, petitioners be released on pre-arrest bail on furnishing a bond of Rs. 20,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the following conditions that:-

1. the petitioners shall appear before the I.O. within 7 days from today.
2. the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
3. 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 any other police officer, and
4. the petitioners shall not hamper the investigation or temper with the evidence of the case.

In the event of failure of any terms and conditions mentioned above, the pre-arrest bail be treat as cancelled.

With the above directions, the bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant