

GAHC010020072024



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

Case No. : AB/248/2024

TAFAJUL HUSSAIN AND 4 ORS
S/O- LT. ABU BAKKAR SIDIQUE, R/O VILL. CHUTYIYAGAON, P.S.
LAHARIGHAT, DIST. MORIGAON, ASSAM

2: MOZIDA BEGUM @ MOZIDA KHATUN
W/O- TAFAJUL HUSSAIN
R/O VILL. CHUTYIYAGAON
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM

3: IMDADUL HOQUE @ IMDADUL HUSSAIN
S/O- TAFAJUL HUSSAIN
R/O VILL. CHUTYIYAGAON
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM

4: ABU SUFIYAN
S/O- TAFAJUL HUSSAIN
R/O VILL. CHUTYIYAGAON
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM

5: ABDUL KAIYUM
S/O- TAFAJUL HUSSAIN
R/O VILL. CHUTYIYAGAON
P.S. LAHARIGHAT
DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

11.03.2024

1. Heard Mr. N. Uddin, learned counsel for the petitioners. Also heard Mr. K. K. Parashar, learned Additional Public Prosecutor for the State of Assam.
2. The petitioners, namely, **(1) Tafajul Hussain, (2) Mozida Begum @ Mozida Khatun, (3) Imdadul Hoque @ Imdadul Hussain, (4) Abu Sufiyan and (5) Abdul Kaiyum**, have approached this Court for the second time praying for grant of pre arrest bail who are apprehending arrest in connection with Laharighat P.S. Case No. 267/2023 under Section 419/420 of IPC.
3. Mr. Uddin, learned counsel for the petitioners on instruction submits that the petitioners namely, **(1) Tafajul Hussain and (3) Imdadul Hoque @ Imdadul Hussain**, have already been arrested in connection with the aforesaid case. Accordingly, he submits that there is no cause of action to press this bail application so far relating to the said petitioners namely, **(1) Tafajul Hussain and (3) Imdadul Hoque @ Imdadul Hussain**.
4. This Court after perusal of the case diary rejected such prayer of the petitioners for grant of pre arrest bail under its order dated 01.12.2023 passed in

AB/3852/2023, after finding that sufficient incriminating materials are available against the petitioners in the case diary.

5. In the instant bail application, under its order dated 05.02.2024, this Court had again called for the case diary. Accordingly, the case diary has been produced by the learned Additional Public Prosecutor today.
6. This Court has once again gone through the case diary. It is seen from the materials available on record including the statements of the victim and other villagers that two other arrested accused, the petitioners were kingpin and therefore, their custodial interrogation may be necessary.
7. This Court has also considered the stage of investigation, which also suggests that the custodial interrogation of the petitioners may be necessary.
8. Yet another aspect of the matter is that this Court has not found any new grounds, which were not available when the bail was rejected by this Court under its order dated 01.12.2023 passed in AB/3852/2023.
9. That being the position, the prayer of bail for the petitioners stand rejected. However, while parting with the record, it is made clear that the observations made in this order is for the purpose of consideration of the prayer of bail only and same should not be treated as affirmation of merit of the prosecution case.
10. With the aforesaid determination and observations, this bail application stands dismissed.
11. Case diary be returned back to the learned Additional Public Prosecutor.

JUDGE

Comparing Assistant