

GAHC010026072024



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

Case No. : AB/308/2024

AZIR UDDIN @ KOKON AND ANR.
S/O SURAJ ALI
R/O MOHANPUR
P.S. RAM KRISHNA NAGAR,
DIST. KARIMGANJ, ASSAM

2: FOZIR UDDIN
S/O SURAJ ALI
R/O MOHANPUR
P.S. RAM KRISHNA NAGAR
DIST. KARIMGANJ
ASSA

VERSUS

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

Advocate for the Petitioner : MR. A AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

O R D E R

21.03.2024

Heard Mr. A. Ahmed, learned counsel for the petitioners and Mr. D. Das, learned Additional Public Prosecutor, Assam for the State.

2. By this application under Section 438 Cr.P.C, the petitioners, namely, (i) Azir

Uddin @ Kokon and (ii) Fozir Uddin have prayed for their pre-arrest bail apprehending arrest in P.R.C Case No. 1444/2023 arising out of Ratabari Police Station Case No. 114/2023, corresponding to G.R. Case No.940/2023, registered under Sections 341/326/34 of I.P.C read with Sections 25(1A)/27/35 of the Arms Act, presently pending before the Court of learned Chief Judicial Magistrate, Karimganj.

3. We have perused the records of G.R. Case No.940/2023 (P.R.C Case No.1444/2023) as well as the records of Ratabari Police Station Case No. 114/2023.

4. The incident occurred on 25.04.2023 in the morning and the victim was shot at by a handmade gun, in which the victim sustained grievous injuries and as the injuries are found to be serious in nature, the victim was sent to Silchar Medical College and Hospital for treatment. As per the medical report, the victim sustained grievous injuries with sharp weapon. It is also seen from the records of the case that three of the accused persons, namely Abdul Salam @ Salam Uddin; Nasir Uddin and Jamal Uddin @ Batul were arrested during the investigation of the case on 24.05.2023 and later, they were released on bail on 28.07.2023.

5. After investigation of the matter, the Investigating Officer of said Ratabari Police Station Case No. 114/2023 on 31.10.2023 submitted the charge-sheet vide No.164/2023 against 05(five) persons including the present two petitioners, who evaded their arrest and absconded during the investigation of the case relating to said Ratabari Police Station Case No. 114/2023.

6. Earlier on 21.06.2023 in AB No. 2044/2023, the pre-arrest bail prayer of the petitioner No. 2 Fozir Uddin was rejected by this Court in said Ratabari Police

Station Case No. 114/2023.

7. From the Case Diary, it is seen that the ocular witness implicated the petitioners regarding their presence during the incident. Moreover, the arrested accused persons also named the present petitioners and also the use of their motor-cycle that was recovered and seized from the house of the petitioner No. 1 during investigation.

8. Mr. A. Ahmed, learned counsel appearing for the petitioners submits that as the charge-sheet has already been filed in the case, the petitioners want to surrender in said G.R. Case No. 940/2023 arising out of Ratabari Police Station Case No. 114/2023 (P.R.C Case No.1444/2023), which is presently pending before the learned Chief Judicial Magistrate, Karimganj at the committal stage where the learned Chief Judicial Magistrate, Karimganj have issued summons to them for their appearance.

9. It is seen from the records of the case that against the arrested accused persons, cognizance under Sections 341/326/307/34 of IPC have already been taken on 13.12.2023 by the learned Chief Judicial Magistrate, Karimganj being prima-face satisfied from the materials available in the charge-sheet. It is also seen that the said G.R. Case No. 940/2023 is fixed on 30.03.2024.

10. Considering the submissions made by the learned counsel for the parties and the materials placed before the Court, the petitioners are directed to appear before the learned Chief Judicial Magistrate, Karimganj on or before 30.03.2024 in said G.R. Case No. 940/2023 (P.R.C Case No.1444/2023) arising out of Ratabari Police Station Case No. 114/2023.

11. In the event of filing any such bail application by the petitioners for their regular bail in said G.R. Case No. 940/2023 arising out of Ratabari Police Station

Case No. 114/2023 before the appropriate forum, the same shall be considered in accordance with law.

12. With the above observation and direction, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant