

GAHC010028812024



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

Case No. : AB/368/2024

MARJINA KHATUN @ MILON BEGUM AND 3 ORS.
D/O ABUL KALAM
VILL- KEKURABORI
P.O. AND P.S. MORIGAON,
DIST. MORIGAON, ASSAM
PIN-782105

2: RUKIA KHATUN
W/O ABUL KALAM
VILL- KEKURABORI
P.O. AND P.S. MORIGAON
DIST. MORIGAON
ASSAM
PIN-782105

3: EJAJUL HOQUE
S/O NIJAM UDDIN
VILL- SOLOGURI GAON
P.S. DHING
P.O. SALAGURI
DIST. NAGAON
ASSAM
PIN-782123

4: ALMINA BEGUM @ AJMINA BEGUM
W/O EJAJUL ISLAM
VILL- KEKURABARI
P.O. AND P.S. MORIGAONCHAR
DIST. MORIGAON
ASSAM
PIN-78210

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

04.03.2024

Heard Mr. M.H. Ahmed, learned counsel for the applicants and Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Morigaon P.S. Case No. 358/2022**, under Sections 346/365 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants namely, **Marjina Khatun @ Milon Begum; Rukia Khatun; Ejajul Hoque;** and **Almina Begum @ Ajmina Begum** for grant of pre-arrest bail.

3. The said case has been registered on the basis of one F.I.R. lodged by one Abdul Rashid, on 17.10.2022. The essence of allegation made in the FIR is that one and half years back, the brother informant namely, Salman Hoque got married with one Marjina Khatun and since then he used to reside in her house and about 3 months back the accused persons namely, Marjina Khatun @ Milon Begum; Rukia Khatun; Ejajul Hoque; and Almina Begum @ Ajmina Begum, picked up a quarrel with him and since then he has been missing and the informant suspects that the accused persons might have killed his brother.

4. Mr. Ahmed, learned counsel for the applicants submits that the applicants are innocent and no way involved with the offence alleged in the FIR

and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Ms. Begum, learned Additional Public Prosecutor has produced the Case Diary before this Court and referring to the statement of the victim, recorded under Section 161 of the Cr.P.C., she submits that the materials collected so far in the case diary, are inadequate to show the complicity of the applicants with the offence alleged in the FIR.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court, with the assistance of learned Additional Public Prosecutor.

7. In view of the nature and gravity of the offence and punishment prescribed for the same and also considering the materials collected so far in the case diary, especially the statement of the victim recorded under Section 161 of the Cr.P.C., this Court is of the view that further custodial interrogation of the applicants may not be required, in the interest of investigation.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with the **Morigaon P.S. Case No. 358/2022**, under Sections 346/365 of the IPC, they shall be enlarged on pre-arrest bail, on their executing a bond of Rs. 50,000/- each only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make themselves available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant 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

(iii) that the applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, Morigaon**, without prior permission.

10. In terms of this AB stands disposed of.

11. The case diary be returned.

Comparing Assistant

JUDGE