

GAHC010030892024



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

Case No. : AB/387/2024

MIZANUR RAHMAN
S/O ABDUL MALEK
R/O VILL- SILAPANI
P.O AND P.S. LAKHIPUR
DIST. GOALPARA, ASSAM
PIN-783129

2: SANUWAR HUSSAIN
S/O NAJIR HUSSAIN
VILL BAURARTAL
P.O. AOLATOLI
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PRESENT R/O VILL- SILAPANI
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN-78312

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 27.02.2024

Heard Mr. M. I. Hussain, learned counsel for the petitioner. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Lakhipur P.S. Case No. 02/2024, under Sections 342/326 of the Indian Penal Code.

The Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. M. I. Hussain, learned counsel for the petitioner, that the present accused/petitioners are innocent and they are not involved in the alleged offence. However, the victim of this case is a habitual offender and he deals with the theft of many articles in that locality and on the day of incident also, with a view to steal one motor pump, he visited there when some local persons gathered and assaulted him and thereby he might have sustained some injury. Further, the present 2 (two) accused/petitioners handed over him to police and that apart, they have not committed any offence as alleged in the F.I.R. However, they are ready and willing to cooperate with the I.O. in the further investigation of the case if they are granted with the privilege of pre-

arrest bail.

In this context, Mr. K. K. Das, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials brought against the present 2 (two) accused/ petitioners showing their involvement in the alleged offence. As per the injury report, the victim sustained grievous injury with a fracture on his leg. However, the victim is already released from the hospital after his treatment.

After hearing the submissions of learned counsels of both sides and also on perusing the medical report, it is seen that the victim sustained grievous injury after the incident. However, at present, he is released from the hospital.

Considering the above and also considering the entire aspects of the case, I find that custodial interrogation of the present accused/petitioners are not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, (i) Mizanur Rahman & (ii) Sanuwar Hussain, in connection with Lakhipur P.S. Case No. 02/2024, under Sections 342/326 of the Indian Penal Code, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall appear before the Investigating Officer of the case within a period of 1 (one) week from today;
- (ii) that the petitioners shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and
- (iii) that 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 to any police officer.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant