

GAHC010032782024



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

Case No. : AB/405/2024

MITHUN RABIDAS AND ANR.
S/O MEWALAL RABIDAS
R/O
VILLAGE BINNAKANDI GRANT PART I, P.O. BINNAKANDI, P.S. LAKHIPUR,
DIST. CACHAR, ASSAM

2: UTTAM RABIDAS
S/O SRIKANTA RABIDAS @ SANGRU RABIDAS
R/O
VILLAGE BINNAKANDI GRANT PART I
P.O. BINNAKANDI
P.S. LAKHIPUR
DIST. CACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

12.03.2024

Heard Mr. L.R. Mazumder, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Addl. P.P, Assam.

This is an application under Section 438 of Cr.PC, 1973 for granting of pre-arrest bail to the petitioners, namely Mithun Rabidas and Uttam Rabidas, who are apprehending arrest in connection with Lakhipur P.S Case No. 319/2023 corresponding G.R. Case No. 406/2023 registered under Sections 147/148/149/341/333/307/353 of IPC.

The case of the prosecution is that on 28.11.2023, an FIR was lodged before the jurisdictional Police Station against the accused persons by one Fakar Uddin, ASI alleging inter alia that on 28.11.2023 at about 7:05 PM, an information was received by the Officer-in-charge from a reliable source that a Jhandi Munda gambling is going on illegally at Binnakandi grant near Kali Mandir. Accordingly, they proceeded to the spot and when they reached, the gamblers and about 20/25 persons attacked them with sharp and dangerous weapons to deter their duties and badly assaulted his accompanied staff UBC/305, Ekbal Hussain and ABC/441, Gohin Das.

Mr. L.R. Mazumder, learned counsel for the petitioners submits that the petitioners were not involved in the case and are falsely implicated in the case. He further submits that on that day, a festive season was going on and some

people of the locality organized an Orkestra programme on 28.11.2023. He further submits that the petitioners had gone to see the said programme and while they were assembled there, they saw that there was a scuffle going on between some people and Police staff. He further submits that they have been named in the FIR purely because of suspicion on the basis that they were present in there. He further submits that the petitioners are ready and willing to cooperate in the investigation.

Mr. P. Borthakur, learned Addl. P.P on the other hand strongly opposes the prayer for bail. He submits that though the injury report of the injured victims are not available in the Case Diary, a photograph is there which indicates that one of the injured person sustained injury in the head.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears that there are no materials available on record directly attributing to the petitioners at this stage.

Considering the above, this Court is of the considered view that custodial interrogation of the petitioners may not be justified for the on-going investigation.

Accordingly, it is provided that in the event of arrest, the petitioners named above, shall be released on pre-arrest bail in connection with the above noted case on furnishing bail bond of Rs. 30,000/- each with one surety of like amount to the satisfaction of the arresting authority, subject of course to the following conditions:-

- (i) That the petitioners shall appear before the Investigating Officer within 7 days, failing which on and from the 8th day, they shall be arrested.
- (ii) 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 them from disclosing such facts to the Court or to any Police Officer.

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

JUDGE

Comparing Assistant