

GAHC010035792024



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

**Case No. : AB/435/2024**

FAROOK JAHAN AHMED @ FARUK JAHAN (MILTON) AND 3 ORS.  
S/O LATE JALALUDDIN AHMED  
R/O C.D. ROAD, WARD NO. 3,  
NORTH LAKHIMPUR, P.S. AND DIST. LAKHIMPUR, ASSAM, PIN-787001

2: SAFIUR RAHMAN @ MD. SAFIU RAHMAN (APUR)  
S/O MATIUR RAHMAN  
R/O C.D. ROAD  
WARD NO. 3

NORTH LAKHIMPUR  
P.S. AND DIST. LAKHIMPUR  
ASSAM  
PIN-787001

3: AMIUR RAHMAN @ AMIU RAHMAN  
S/O MATIUR RAHMAN  
R/O C.D. ROAD  
WARD NO. 3

NORTH LAKHIMPUR  
P.S. AND DIST. LAKHIMPUR  
ASSAM  
PIN-787001

4: MATIUR RAHMAN @ MATIU RAHMAN  
S/O LATE MUKLESWAR RAHMAN  
R/O C.D. ROAD  
WARD NO. 3

NORTH LAKHIMPUR  
P.S. AND DIST. LAKHIMPUR  
ASSAM  
PIN-78700

VERSUS

THE STATE OF ASSAM  
REPRESENTED BY THE PP, ASSAM

**Advocate for the Petitioner** : MR H R A CHOUDHURY

**Advocate for the Respondent** : PP, ASSAM

**BEFORE**  
**HONOURABLE MRS. JUSTICE MITALI THAKURIA**

**ORDER**

**Date : 10.05.2024**

Heard Mr. H. R. A. Choudhury, learned Senior Counsel assisted by Mr. B. U. Laskar, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent and Ms. S. G. Baruah,

learned counsel appearing on behalf of the informant.

This is an application under Section 438 of the Code of Criminal Procedure praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with North Lakhimpur P.S. Case No. 25/2024, under Sections 341/326/34 of the Indian Penal Code (G.R. Case No. 80/2024).

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

It is submitted by Mr. H. R. A. Choudhury, learned Senior Counsel for the petitioners, that it is a fact that there was an altercation and scuffle took place between the 2 (two) parties only due to some misunderstanding when one dog was barking at the victim. But no such incident had happened as alleged in the F.I.R. More so, out of the said incident, the accused Nos. 1 & 2 also sustained injuries and they had to take treatment and for that reason, the wife of the accused No. 1 also lodged an F.I.R., which is registered as North Lakhimpur P.S. Case No. 24/2024. However, the case has already been Charge-Sheeted under Sections 341/323 IPC. The learned Senior Counsel for the petitioner further submitted that it was a tussle or altercation between 2 (two) groups of people and the entire incident had happened only due to misunderstanding and accordingly, the custodial interrogation of the present accused/petitioners are not necessary for the purpose of investigation. However, all the accused/petitioners are ready and willing to co-operate with the I.O. in further investigation of this case. Rather the accused/ petitioner No. 4 is the father of the petitioner Nos. 2 & 3 and the petitioner No. 1 is also the relative of other accused persons.

In this context, Mr. K. K. Parasar, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials in the Case Diary and from the injury report as well as from the materials available in the Case Diary, it is seen that all the 4 (four) accused persons had assaulted the victim in a brutal manner and it cannot be said that under the provocation, the accused/petitioners assaulted the victim. It is a fact that the incident had happened only due to barking of the dog on the victim, but for that reason, the victim could not have been assaulted brutally by the accused/petitioners for which he sustained 3 (three) cut injuries on his head measuring 12 c.m., 5 c.m. & 3.1 c.m. and apart from that, the victim also sustained other cut injuries on his body and injured by blunt weapon. Accordingly, he raised strong objection and submitted that this is not a fit case to grant the privilege of pre-arrest bail to all the accused/petitioners otherwise a wrong message will go to the society.

Ms. S. G. Baruah, learned counsel appearing on behalf of the informant, has submitted that the victim, being the police personal only, could save his life due to his physical strength and the other person would not have survive the way the accused/ petitioners assaulted the victim as the injury was enough to kill any person. Accordingly, she submitted that there may be hampering and tampering of the investigation of the case if the present accused/petitioners are granted with the privilege of pre-arrest bail and thus, she raised objection and submitted that it is not at all a fit case to allow the accused/petitioners to go on pre-arrest bail.

After hearing the submissions made by the learned counsels appearing on

behalf of the parties and also considering the entire facts and circumstances of this case under which the incident had happened and the injury sustained by the victim as well as the role played by all the accused/petitioner, I find that it is not all a fit case to grant the privilege of pre-arrest bail to the accused/petitioners and accordingly the same stands rejected.

In terms of above, this anticipatory bail application stands disposed of.

**JUDGE**

**Comparing Assistant**