

GAHC010036102024



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

Case No. : AB/458/2024

KALAM SK. AND ANR.
S/O LATE SOMED ALI SK.
R/O VILL- NALDOBA, P.O. BIDYAPUR
P.S. AND DIST. BONGAIGAON, ASSAM
PIN-783372

2: ALOM ALI
S/O ROFIQUL ISLAM
R/O VILL- NALDOBA
P.O. BIDYAPUR
P.S. AND DIST. BONGAIGAON
ASSAM
PIN-78337

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR B PATHAK

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 26.04.2024

Heard Ms. M. Tiwari, learned counsel for the petitioners. Also heard Mr. P. Borthakur, 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/petitioners, who are apprehending arrest in connection with Bongaigaon P.S. Case No. 542/2023, under Sections 120(B)/328/364(A) of the Indian Penal Code.

It is submitted by Ms. Tiwari, learned counsel for the petitioners, that the present accused/petitioners are innocent and they are not at all involved in the alleged offence. Further she submitted that the other 2 (two) co-accused have already been enlarged on bail and hence, on the ground of parity, the present accused/petitioners may also be granted with the privilege of pre-arrest bail. However, she submitted that both the accused/petitioners are ready and willing to co-operate with the I.O. in the further investigation of this case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has submitted that there are sufficient incriminating materials against both the accused/petitioners and the entire incident had happened in the house of the accused/petitioner No. 1 and he is very much involved in the alleged offence.

Further he submitted that the accused/petitioner No. 2 is the main culprit of the entire incident and there are 2 (two) more cases, i.e. Bongaigaon P.S. Case No. 351/2022 & Belchor P.S. Case No. 34/2023, pending against him with the similar kind of allegations. More so, he submitted that from the bank statement collected by the I.O. and from the report of the I.O., it is seen that the father of the victim has already paid Rs. 3,60,000/- and Rs. 80,000/- has also been paid through Phonepe of the present victim. The learned Additional Public Prosecutor further submitted that the present 2 (two) accused/ petitioners, along with some others, are involved in the alleged offence who are yet to be apprehended in connection with this case and considering the entire circumstances of this case, the custodial interrogation of the present accused/petitioners will be required for the interest of the investigation.

After considering the submissions made by the learned counsels for both sides and also considering the incriminating materials available in the Case Diary against the present accused/petitioners and further considering the nature of offence, I find that custodial interrogation of the present accused/petitioners may be required for the purpose of just and proper investigation of this case and hence, I do not find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners and accordingly the same stands rejected.

The anticipatory bail application stands disposed of in terms above.

JUDGE

Comparing Assistant