

GAHC010046002024



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

Case No. : AB/588/2024

ASHUTOSH KUMAR AND ANR
S/O RANJIT JAH, R/O BYE LANE NAME-KUSUM KUWAR PATH, P.O.-
FATASIL AMBARI, PIN-781025, P.S.-FATASIL AMBARI, GUWAHATI, KAMRUP
(M), (ASSAM)

2: PREM SAHANI @ PREM
S/O LATE JUGAL SAHANI
R/O BYE LANE NAME- KUSUM KUWAR PATH
P.O.-FATASIL AMBARI
PIN-781025
P.S.-FATASIL AMBARI
GUWAHATI
KAMRUP (M)
(ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : F K R AHMED

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

18.03.2024

Heard Mr. F.K.R. Ahmed, learned counsel appearing for the petitioners. Also heard Mr. P. Borthakur, learned Addl. P.P., Assam appearing for the State respondent.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the petitioners, namely **Ashutosh Kumar @ Buntly and Prem Sahani @ Prem**, in connection with **Fatasil Ambari P.S. Case No. 59/2024**, registered under Sections **325/324/354(B)/392/34** of the Indian Penal Code, 1860, corresponding to G.R. No. 836/2024.

3. The case of the prosecution in brief is that an FIR was lodged 15.02.2024 alleging inter-alia on 14.02.2024 after the informant closed his hotel and was going with his wife to Kushal Path Kali Mandir, Fatasil Ambari to visit the Saraswati Puja and after returning there from, some people started beating him from back side on his head, shoulder with rod, dao, bamboo and knife as a result of which, he fall down and sustained grievous injuries. It is further alleged that when his wife tried to interrupt them she also sustained injuries.

4. Mr. F.K.R. Ahmed, learned counsel for the petitioners submits that the petitioners are totally innocent and have been falsely implicated in the offence. He further submits that the petitioners were merely present at the place of occurrence and he also submits that no incident as alleged in the FIR has taken place.

5. Mr. P. Borthakur, learned Addl. P.P. on the other hand strongly opposes the

prayer of anticipatory bail. He submits that on the basis of the materials available in the case diary that the statements of witnesses have been recorded. He further submits that the investigation has substantially progressed. He further submits that it appears from the materials available in the case diary that the petitioners were present at the place of occurrence. He further submits that there is no requisition for medical examination of the informant/victim available in the case diary.

6. Pertinent to mention that vide order dated 12.03.2024, this Court had call for the injury report. However, today when the matter was called, no injury report has been received.

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

8. It appears that the investigation has substantially progressed and also by taking the totality of the circumstance of the case, this Court is of the considered view that custodial interrogation of the petitioners may not be necessary for the ongoing investigation.

9. Considering the facts and circumstances of the case, it is provided that in the event of arrest, the petitioner named above, shall be released on pre-arrest bail in connection with the above noted case, on furnishing bail bond of Rs. 30,000/- 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 within 10 days, failing which on and from the 11th day, the pre-arrest bail order has no force; and
- (ii) That the petitioner 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, and That the petitioner shall refrain from such activities with which he has alleged.

10. Return the case diary.

11. This disposes of anticipatory bail application.

JUDGE

Comparing Assistant