

GAHC010049172024



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

Case No. : AB/627/2024

MOTIAR RAHMAN AND 2 ORS.
S/O LATE ABDUL GANI, R/O VILL- MONAKOCHA, P.S.-KALGACHIA, DIST-
BARPETA, ASSAM

2: HALIMA KHATUN
W/O MOTIAR RAHMAN
R/O VILL- MONAKOCHA
P.S.-KALGACHIA
DIST- BARPETA
ASSAM

3: ISAHAQUE ALI
S/O LATE SAYED ALI
R/O VILL- HALDIA GAON
P.S.-KALGACHAI
DIST- BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MD. I HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 04.04.2024

Heard Mr. I. Hussain, learned counsel for the petitioners. Also heard Mr. R. R. Kaushik, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Kalgachia P.S. Case No. 04/2024, corresponding to G.R. No. 32/2024, under Section 447/323/326/307/34 of the Indian Penal Code.

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

It is submitted by Mr. I. Hussain, learned counsel for the petitioners, that it is a fact that there was an altercation and quarrel took place between 2 (two) groups due to some land dispute and the members of both the groups sustained some injuries out of that scuffle. But no such incident had happened and the accused/petitioners have not committed any offence as alleged in the F.I.R. The petitioners' side also lodged a counter F.I.R. against the informant and other members and that has also been registered and the case is at the stage of investigation. However, 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. He further submitted that considering the allegation made in the F.I.R., custodial interrogation of the present accused/petitioner is not required in the present case. They are the permanent resident of their addressed locality and will appear before the I.O. as and when their presence will be required.

In this content, Mr. R. R. Kaushik, learned Additional Public Prosecutor, has submitted that from the materials available in the Case Diary, it is seen that the quarrel took place between 2 (two) groups due to land dispute and one of the victim also sustained serious injury due to assault by the blunt object and other victim sustained minor injuries. However, considering the materials available in the Case Diary and the nature of offence, the accused/petitioners may be granted with the privilege of interim pre-arrest bail.

After hearing the submissions of learned counsels for both sides and also considering the nature of offence as well as the injury report submitted by the I.O. along with the Case Diary, I find that custodial interrogation of the present accused/ petitioners is 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) Motiar Rahman, (ii) Halima Khatun & (iii) Isahaque Ali, in connection with Kalgachia P.S. Case No. 04/2024, corresponding to G.R. No. 32/2024, under Section 447/323/326/307/34 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 petitioners shall appear before the Investigating Officer of the case within a period of 1 (one) week from today to enable recording of their statement;
- (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