

GAHC010051122024



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

Case No. : AB/637/2024

REZAUL ISLAM KHAN @ RAJIB AND ANR.
S/O EUSOF ALI KHAN, VILL- TUMNI LAWKHOWA, P.S.-SOUTH SALMARA,
DIST-SOUTH SALMARA MANKACHAR, ASSAM

2: MAHBUB KHAN
S/O EUSOF ALI KHAN
VILL- TUMNI LAWKHOWA
P.S.-SOUTH SALMARA
DIST-SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MAHIBUR RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

18.04.2024

Heard Mr. M. Rahman, learned counsel for the applicants and Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **South Salmara P.S. Case No. 24/2024**, under Sections 143/ 447/ 333/ 353/ 323/ 294/ 506 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by two applicants namely, **Rezaul Islam Khan @ Rajib and Mahbub Khan** for grant of pre-arrest bail.

3. It is to be noted here that the said case has been registered on the basis of one F.I.R. lodged by Dr. Mazibor Rahman, Assistant Professor, South Salmara college, on 05.02.2024. The essence of allegation made in the FIR is that on 05.02.2024, at about 12:00 pm, Surman Ali; Nur Haque; Bappi; Bakkar Ali; Abdul Awal; Abu Sama; Hasanur Rahman; Nur Islam; Jahirul Islam; and others, entered into the college campus without any permission and attacked him by pulling him from the veranda and took him towards the field by pushing him, while he was coming out from the Assamese department to the veranda, after keeping the register book, after completion of his BA 2nd semester class and they have also insulted his colleague namely, Rezaul Islam by using slang languages and they have also threatened the other employees of the college.

4. Mr. Rahman, learned counsel for the applicants submits that the applicants are innocent and no way involved with the offence alleged in the FIR and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Das, learned Additional Public Prosecutor submits that the materials collected so far in the case diary, reveals the complicity of the applicants with the offence alleged in the FIR and as such, their custodial interrogation is necessary and therefore, it is contended to dismiss the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary produced before this Court, with the assistance of learned Additional Public Prosecutor.

7. Indisputably the present applicants are not named in the FIR and the materials collected so far in the case diary also failed to disclose any legally prosecutable culpability against them. Considering above and the nature of accusation as well as the punishment prescribed for the same and also considering the submissions of learned counsel of both sides, this Court is of the view that further custodial interrogation of the applicants may not be required, in the interest of investigation.

8. Accordingly, it is provided that in the event of arrest of the applicant, in connection with the **South Salmara P.S. Case No. 24/2024**, under Sections 143/ 447/ 333/ 353/ 323/ 294/ 506 of the IPC, they shall be enlarged on pre-arrest bail, on their executing a bond of Rs. 50,000/- each only, with one surety of like amount to the satisfaction of the arresting authority.

9. The above privilege is, however, subject to the following conditions:

(i) that the applicant shall make themselves available for interrogation by the Investigating Officer as and when required;

(ii) that the applicant 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; and

(iii) that the applicant shall not leave the jurisdiction of the learned **Chief Judicial Magistrate, South Salmara**, without prior permission.

- 10.** In terms of this AB stands disposed of.
- 11.** The case diary be returned.

Comparing Assistant

JUDGE