

GAHC010051872024



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

Case No. : AB/658/2024

AHMAD ALI AND ANR.
S/O MASRAB ALI
R/O VILL- MOYAMARI
P.S. SAMAGURI
DIST. NAGAON, ASSAM

2: MASRAB ALI
S/O AHMAD ALI
R/O MOYAMARI
P.S. SAMAGURI
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. P RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

01.04.2024

Heard Mr. S. Islam, learned counsel for the petitioners. Also heard Mr. K.K.

Das, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Ahmad Ali and 2. Masrab Ali, who are apprehending their arrest in connection with Samaguri P.S. Case No.29/2024 under Section 341/325/294/34/326 IPC.

The gist of accusation in this case is that on 30.01.2024 one Md. Iman Ali had lodged an FIR before the Officer-In-Charge of Moyamari Police Outpost, *inter alia*, alleging that, on 30.01.2024, at about 9:30 AM, the son of the first informant went near the accused persons named in the FIR including the present petitioner. They assaulted him with spade and caused grievous injuries on his person.

Learned counsel for the petitioners has submitted that there was a land dispute between the present petitioners and the family members of the first informant and due to the said dispute on the day of the alleged incident, altercation took place between both the parties and the petitioners were also bitten up by the other side.

Learned counsel for the petitioners has submitted that the petitioners shall co-operate in the investigation and on that ground they have prayed for allowing them to go on anticipatory bail.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Samaguri P.S. Case No.29/2024 and has submitted that there are incriminating materials against the present petitioners and has vehemently opposed the grant of anticipatory bail to the present petitioners. He has also pointed out that the injury report of the victim which is available in the case diary shows that the victim has suffered grievous injuries on his head including fracture on the frontal region of the forehead.

I have considered the submission made by the learned counsel for the petitioner as well as gone through the materials available on record, including the case diary of Samaguri P.S. Case No.29/2024.

On perusal of the case diary, it appears that the victim has suffered grievous injuries on his person on the vital part of the body including fracture on frontal forehead. It also appears that there are other evidence which incriminates against the present petitioners. The statement of the injured victim recorded under Section 161 of the Code of Criminal Procedure, 1973 also implicates both the present petitioners.

Therefore, this court is of the considered opinion that this is not a fit case where favourable orders may be passed under Section 438 of the Code of Criminal Procedure, 1973 in favour of the present petitioners.

The prayer for anticipatory bail is accordingly rejected.

Send back the case diary.

JUDGE

Comparing Assistant