

GAHC010057312024



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

Case No. : AB/757/2024

SAMSUL HAQUE LASKAR AND 2 ORS.
R/O VILL- PASCHIM KITTARBAND, P.O.-MANACHARA, P.S.-LALA, DIST-
HAILAKANDI, PIN-788168

2: SAHIDUL ISLAM LASKAR
S/O SAMSUL ISLAM LASKAR
R/O VILL- PASCHIM KITTARBAND
P.O.-MANACHARA
P.S.-LALA
DIST- HAILAKANDI
PIN-788168

3: NAZATUL ISLAM LASKAR
S/O SAMSUL ISLAM LASKAR
R/O VILL- PASCHIM KITTARBAND
P.O.-MANACHARA
P.S.-LALA
DIST- HAILAKANDI
PIN-78816

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. T A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 17.07.2024

Heard Mr. T. A. Choudhury, 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 praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Complaint Case No. 144/2024, under Sections 498(a)/354 /376/511/34 of the Indian Penal Code *read with* Sections 3 & 4 of the Dowry Prohibition Act, pending before the Court of learned Chief Judicial Magistrate, Hailakandi.

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

It is submitted by Mr. Choudhury, learned counsel for the petitioners, that the accused/petitioners are innocent and they have not committed any offence as alleged in the F.I.R. The victim was never legally married to the accused/petitioner No. 3 nor there was any Kabilnama registered or executed in respect of their marriage. She herself came and resided in the house of the accused/petitioners, though there was no formal marriage. Subsequently, she used to demand money from the accused/ petitioner No. 3 and for which, the accused/petitioner No. 2 also lodged a complaint case against the victim. However, all the accused/petitioners are ready and willing to co-operate with the

I.O. in the further investigation of the case if they are granted with the privilege of pre-arrest bail.

Mr. Borthakur, learned Additional Public Prosecutor, has submitted in that regard that except the statement made by the victim/informant, there is no evidence to support the prosecution case, especially in regards to the attempt of rape by the accused/petitioner No. 2. He further submitted that as per the available materials, there was a love relationship between the accused/petitioner No. 3 and the victim and as per the Case Diary, no formal/social marriage was solemnized between them. However, one marriage deed was executed by the parties. Accordingly, he submitted that considering the materials available in the Case Diary, the accused/petitioners may be given one opportunity to co-operate with the I.O. in the investigation of the case.

After hearing the submissions made by the learned counsels for both sides and also considering the materials available in the Case Diary as well as the other aspects of the case, I find that custodial interrogation may not be necessary in the interest of investigation and accordingly, 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) Samsul Haque Laskar, (ii) Sahidul Islam Laskar @ Pervaz Laskar & (iii) Nazatul Islam Laskar, in connection with Complaint Case No. 144/2024, under Sections 498(a)/354 /376/511/34 of the Indian Penal Code *read with* Sections 3 & 4 of the Dowry Prohibition Act, 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;
- (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 the Investigating Officer or tamper with the evidence of the case.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE