

GAHC010058492024



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

Case No. : AB/751/2024

JALIL ALI AND ANR.
S/O SUKUR ALI
VILL- BORSULIYA
P.S. SIALMARI
DIST. NALBARI, ASSAM

2: AZIJUL HOQUE @ AZIZUL ALI
S/O JAHUR UDDIN
VILL- LAUPARA (SANIROAD)
P.S. MUKALMUA
DIST. NALBARI
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

10.04.2024

1. Heard Mr. N.J. Dutta, learned counsel for the petitioners. Also heard Mr.

B.B. Gogoi, learned Additional Public Prosecutor, appearing for the State of Assam.

2. This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, (1) Jalil Ali and (2) Azijul Hoque @ Azizul Ali, who are apprehending their arrest in connection with Mukalmua P.S. Case No. 71/2024.

3. The gist of accusation in this is that on 07.03.2024, one Shri Satyabrata Pegu, S.I. of Police had lodged an FIR before the Officer-In-Charge of Mukalmua Police Station, *inter alia*, alleging that on that day at about 12.30 PM, the informant along with other police staff proceeded towards Tilardia Char for inquiry in connection with a complaint submitted by one Rujlina Parbin and after reaching the place, one Azizul Ali was apprehended in connection with this said case. At that time, the petitioners along with one Halal Uddin and others, who are not named in the FIR have attacked the police party with deadly weapons and have beaten up the police party mercilessly.

4. It is also alleged in the FIR that the attackers had snatched away the golden chain from the first informant.

5. The learned counsel for the petitioners has submitted that there was a scuffle at that time as a feast was going on and the person who tried to apprehend Azizul Ali were all in civil dress with masked cover on their faces and therefore, it could not be identified whether the said persons are police or not.

6. It is also submitted that the police arrested four numbers of aged and innocent persons in connection with the said case and by order dated 12.03.2024, the arrested accused persons were released on bail on the date of their production itself by the court of learned Judicial Magistrate First Class,

Nalbari.

7. On the other hand, learned Additional Public Prosecutor has produced the case diary of Mukalmua P.S. Case No. 71/2024 and has submitted that there are incriminating materials against the present petitioners and therefore, he prayed for dismissing the anticipatory bail application.

8. I have considered the submissions made by the learned counsel for both the sides and have perused the materials available on record including the case diary of Mukalmua P.S. Case No. 71/2024. On perusal of the case diary, it appears that there are incriminating materials against the present petitioners, which shows that they instigated and also assaulted the police personnel's. As the allegations against the present petitioners are serious enough in assaulting the law enforcing authorities, this court is not inclined to grant the benefit of anticipatory bail to the present petitioners and accordingly, the prayer for anticipatory bail is rejected. However it would not preclude the court learned Judicial Magistrate First Class, to consider the application for any bail made by the present petitioners on its own merit, if they surrender before the court and make such an application.

9. With the above observation, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant