

GAHC010059012024



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

Case No. : AB/764/2024

MD. NABAB ALI
S/O LATE RUSTAM ALI, PUB FUTALJAR NO. 1 JAME MASJID, PUB
FUTALJAR, P.O.-GORAJAN, P.S.-RUAPHIHAT, DIST- NAGAON, ASSAM, PIN-
782124

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 04.04.2024

Heard Mr. H. Baruah, learned counsel for the petitioner. 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/petitioner, who is apprehending arrest in connection with Rupahitat P.S. Case No. 16/2024, under Sections 448/325/ 307 of the Indian Penal Code.

Case Diary has been received. Perused the same.

However, it is submitted by the learned Additional Public Prosecutor that the injury report is not available in the Case Diary.

It is submitted by Mr. H. Baruah, learned counsel for the petitioner, that the accused/petitioner and the victim are the own brothers and due to land dispute only, the incident had happened. It is a fact that on the day of incident, there was a quarrel between 2 (two) brothers for the land and there was a scuffle between them, but he has not assaulted the victim with any intention to kill him and there was no such assault as alleged in the F.I.R. However, the accused is ready and willing to co-operate with the I.O. in the further investigation of this case if he is granted with the privilege of pre-arrest bail. Further, as per the instruction of his client, the matter has already been amicably settled between the parties.

In this context, Mr. R. R. Kaushik, learned Additional Public Prosecutor, has submitted that the witness and the victim implicated the present accused/petitioner, who hit the victim with an iron rod and he sustained injury.

But, from the materials available in the Case Diary, it is seen that the quarrel took place between the parties only for land dispute and both the parties were engaged in the quarrel as well as scuffle.

After hearing the submissions of learned counsels for both sides, it is seen that the incident had happened only out of the land dispute between the brothers and in that process, the victim sustained injury on his head. However, considering the nature of the case, I find that custodial interrogation of the present accused/petitioner 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/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Md. Nabab Ali, in connection with Rupahitat P.S. Case No. 16/2024, under Sections 448/325/ 307 of the Indian Penal Code, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner 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 petitioner 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 petitioner 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