

GAHC010063272024



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

Case No. : AB/796/2024

JITUMONI CHOUDHURY AND ANR
S/O MOMTAZ ALI, R/O VILL- NAGAON, P.O.-BARAMPUR, P.S.-SIPAJHAR,
DIST-DARRANG, ASSAM, PIN-784144

2: IMRAN HUSSAIN @ DHAN
S/O LATE ISLAMUDDIN AHMED
R/O VILL- NAGAON
P.O.-BARAMPUR
P.S.-SIPAJHAR
DIST-DARRANG
ASSAM
PIN-78414

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 17.05.2024

Heard Mr. M. Hoque, learned counsel for the petitioners. Also heard Mr. K.K. Parasar learned

Additional Public Prosecutor for the State respondent and Mr. R. Sarma, learned counsel for the informant.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners, namely 1. Jitumoni Choudhary 2. Imran Hussain @ Dhan who have been apprehending arrest in connection Sipajhar P.S. Case No.16/2024 under Sections 341/326/34 IPC.

The Case Diary has been received. Perused the same.

Learned counsel for the petitioners has submitted that the accused petitioners are innocent and they have not committed any such offence as alleged in the FIR and false and concocted allegations have been brought against them due to business rivalry rather the informant/victim assaulted the mother of the accused petitioner No.2 for which she also lodged an FIR before the police station. However, he submitted that the accused petitioners have appeared before the I/O and cooperated in further investigation of the case and their statement under Section 161 Cr.P.C. has also been recorded. They are still ready and willing to cooperate with the I/O, if they are granted with the privilege of pre-arrest bail.

In this context, learned Additional Public Prosecutor has submitted that there are sufficient incriminating materials against the petitioners as to how they assaulted the victim when he was coming on bike and for that assault with an grievous object his left hand broken into two pieces and for which he was taken to Mangaldoi Civil Hospital from where he was referred to GMCH. More so, he submits that bail objection has been filed by the I/O wherein, it is stated that the present accused petitioners are still threatening the informant and asked him to withdraw the case and hence, he raised objection and submits that it is not at all a fit case to grant the petitioners with the privilege of pre-arrest bail.

Mr. R. Sarma, learned counsel for the informant in this regard has submitted that their intention was to kill the victim and the aim of the accused petitioners was to hit on the head of the victim. However, somehow he brought his hand over his head for which he sustained injury on his head and saved his life somehow. He accordingly submits that the accused petitioners are threatening the informant and hence he raised objection in granting the accused petitioners with the privilege of pre-arrest bail.

Hearing the submissions made by the learned counsel for both sides as well as the materials available in the case diary and the objection raised by the I/O, I find that custodial interrogation of the accused petitioners may be necessary and the hampering and tampering of the investigation of the case

also cannot be denied at this stage and hence, I do not find it a fit case to extend the privilege of pre-arrest bail.

Accordingly, the interim order dated 27.03.2024 stands vacated.

Anticipatory bail application stands rejected.

Return the case diary.

JUDGE

Comparing Assistant