

GAHC010063592024



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

Case No. : AB/987/2024

BIKRAM BARMAN AND ANR
S/O NITYALAL BARMAN, R/O VILL- MADAILKAI, P.O.- ASHARIKANDI, P.S.-
GAURIPUR, DIST- DHUBRI, ASSAM

2: BIKASH DAS
S/O BHABATOSH DAS
R/O WARD NO. 4
BONGAIGAON TOWN
P.O. AND P.S.-BONGAIGAON
DIST- BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

03.05.2024

Heard Mr. N. J. Dutta, 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 Gauripur P. S. Case No. 428/2023 under Sections 120(B)/325/326/307 of the Indian Penal Code.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mr. Dutta, that the petitioners are innocent and no way connected with the alleged offence. However, it is a fact that at the time of the incident, the accused/petitioners were present at the place of occurrence, but, they were not at all involved in committing any offence as alleged in the First Information Report(FIR) nor they have assaulted the victim. Thus, the Sections 326/307 cannot be attracted against the accused/petitioners. He also submits that their earlier bail application was rejected upon perusal of the Case Diary, but, at present there is sufficient progress in the investigation of the case and accordingly, he submits that the accused/petitioners are still ready and willing to co-operate the IO in further investigation of the case, as and when their cooperation will be required, if they are granted with the privilege of pre-arrest bail.

On the other hand, the learned Additional Public Prosecutor, Mr. Borthakur has submitted that the earlier bail application filed by the accused/petitioners was rejected by this Court, after considering the materials available in the Case Diary and the statement of the victim which revealed that the both the petitioners were fully

involved in the alleged offence. Accordingly, he raised objection and submitted that this is not at all a fit case to allow the accused/petitioners to remain on pre-arrest bail.

After hearing the submissions made by the learned counsels of both sides, I have carefully gone through the Case Diary, Medical Report as well as other materials available in the Case Diary, and it is seen that earlier bail prayer of the accused/petitioners was rejected considering the gravity of the offence. Also, there are sufficient incriminating materials have already been collected by the I.O. against the present accused/petitioners. Thus, considering the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that custodial interrogation of the present accused/petitioners may be necessary in the interest of just and proper investigation of the case. Accordingly, the petition for pre-arrest bail is rejected.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant