

GAHC010068362024



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

Case No. : AB/850/2024

CHABDER ALI AND 2 ORS.
S/O ANAR ALI. RESIDENT OF VILLAGE- BOLDIAR ALGA CHAR N.C., P.S.
SOUTH SALMARA, DISTRICT- DHUBRI, ASSAM.

2: SAYED ALI SHEIKH @ SAYED ALI
S/O HASHEM UDDIN SHEIKH
RESIDENT OF VILLAGE- BOLDIAR ALGA CHAR N.C.
P.S. SOUTH SALMARA
DISTRICT- DHUBRI
ASSAM.

3: ABU BAKKAR SIDDIK @ SIDDIK ALI
S/O JORIP ULLAH
RESIDENT OF VILLAGE- BOLDIAR ALGA CHAR N.C.
P.S. SOUTH SALMARA
DISTRICT- DHUBRI
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B C DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

02.04.2024

Heard Mr. B.C. Das, learned Senior Counsel, assisted by Mr. S.H. Rahman, learned counsel for the petitioners. Also heard Ms. A. Begum, learned Additional Public Prosecutor, for the State respondent as well as Mr. R. Islam, learned counsel for the informant.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting pre-arrest bail to the accused petitioners, namely Chabder Ali, Sayed Ali Sheikh and Abu Bakkar Siddik @ Siddik Ali, who are appending arrest, in connection with South Salmara P.S. Case 25/2024, registered under Section 147/148/149/436/326/325/307/302/385/427 of the IPC.

3. The case of the prosecution is that an FIR was lodged on 06.02.2024, alleging inter-alia that on 06.02.2024, the accused persons conjointly armed with lathi, dao etc. entered into the house of one Badshah Ali and set fire in his house.

4. It is further alleged that the accused persons chased the brother of the informant who was working in the field stabbed him on his head, for which he ultimately died.

5. Mr. B.C. Das, learned Senior Counsel for the petitioners submits that the petitioners have been wrongly implicated in the alleged offence and that they have no role to play.

6. Ms. A. Begum, learned Additional Public Prosecutor, for the State respondent fairly submits that on the basis of materials available in the case diary that the Investigating Officer has not collected any adverse materials at this stage against the petitioner Nos. 2 & 3. She further submits that though there are evidences collected by the Investigating Officer to show that the petitioner No. 1 was present at the place of occurrence, however, there are no materials to show that the petitioner No. 1 has participated in the offence alleged.

7. Considering the facts and circumstances of the case, this court is of the considered view that custodial interrogation of the petitioners may not be justified for the ongoing investigation. Accordingly, it is provided that in the event of arrest, the petitioners named above, shall be released on pre-arrest bail in connection with the above noted case on furnishing bail bond of Rs. 50,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority, subject of course to conditions:-

(i) the petitioners shall appear before the Investigating Officer within 7 days failing which from the 8th day, the pre-arrest bail shall have no force;

(ii) the petitioners shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from deposing against the petitioners in the pending trial against them; and

(iii) the petitioners shall refrain from committing any offence similar to that with which they have been accused of in the instant case.

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

Send back the Case Diary.

JUDGE

Comparing Assistant