

GAHC010071622024



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

Case No. : AB/929/2024

MOTIUR RAHMAN MAZUMDER AND 2 ORS.
S/O LT. HAREJ ALI MAZUMDER, R/O VILL- JAMIRA, P.S.-RAMNATHPUR,
DIST-HAILAKANDI, ASSAM, PIN-788162

2: JOYNUL HAQUE MAZUMDER
S/O MOTIUR RAHMAN MAZUMDER
R/O VILL- JAMIRA
P.S.-RAMNATHPUR
DIST-HAILAKANDI
ASSAM
PIN-788162

3: JIAUL HAQUE MAZUMDER
S/O MOTIUR RAHMAN MAZUMDER
R/O VILL- JAMIRA
P.S.-RAMNATHPUR
DIST-HAILAKANDI
ASSAM
PIN-78816

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. S B CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 12-06-2024

Heard Ms. S.B. Chouhury, learned counsel for the petitioners 1. Motiur Rahman Mazumder, 2. Joynul Haque Mazumder and 3. Jiaul Haque Mazumder.

2. The petitioners have filed this application under Section 438 of the Code of Criminal Procedure, 1973 (CrPC for short) with a prayer for pre-arrest bail as they are apprehending arrest in connection with Ramnathpur Police Station Case No. 175/2023, corresponding to G.R. Case No. 1221/2023 under Sections 120 (B)/436/506 of Indian Penal Code, 1860.

3. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State and M. A.H. Alamgeer, learned counsel for the informant.

4. The allegation against the petitioners is that they have set ablaze the house of the informant which was reduced to ashes. When the house was burning, Ayatun Nessa, Rejial Begum and Dilara Begum went out of the house and saw that the petitioner No. 1 Motiur Rahman Mazumder in collusion with the other petitioners Joynul Haque Mazumder and Jiaul Haque Mazumder were torching the house. They raised alarm, but the petitioners threatened them not to raise alarm lest they would kill them. However as the commotion emanated, the petitioners fled. The informant Raymun Nessa Mazumder has also stated that a land dispute is prevailing between both the parties.

5. It is also submitted on behalf of the petitioners that this incident is the result of a land dispute, and a false case has been slammed against the petitioners.

6. The informant of this case Raymun Nessa Mazumder is the wife of Ala Uddin Mazumder who has been accused in connection with C.R. Case No. 1214/2023 and the complainant of the C.R. Case No. 1214/2023 is the present petitioner No. 1 Motiur Rahman Mazumder. He has also initiated a proceeding under Section 107 of the CrPC which is marked as Annexure-B of the petition and the second party Ala Uddin Mazumder is the husband of the present informant. Annexure-C is the criminal case which was lodged on 17.10.2023 whereas the present FIR was lodged on 28.10.2023.

7. The learned Additional Public Prosecutor has raised objection stating that there are incriminating materials in the Case Diary against the present petitioners. There are pictures of burnt houses annexed to the Case Diary.

8. I have scrutinized the Case Diary and the statements of the witnesses.

9. The seizure list annexed to the Case Diary reveals seizure of burnt bamboo.

10. The learned counsel for the informant has also filed an affidavit-in-opposition, stating that earlier the informant's husband Ala Uddin Mazumder has lodged a petition under Section 107 of the CrPC on 09.08.2023. The house in question which was set ablaze was constructed over the attached land, which is in dispute between both the parties.

11. It is also submitted on behalf of the informant that the petitioners are of desperate nature and the informant fears for her life. As they have already burned down her house, they may go to any extent.

12. The petitioners who are on interim bail have appeared before the Investigating Officer and their statements have been recorded.

13. I have considered the submission that the petitioners are willing to abide by any stringent conditions if imposed upon them. There are indeed incriminating materials in the Case Diary against the petitioners, but it appears that custodial interrogation may not be required for the progress of investigation as investigation has progressed to a considerable extent.

14. Considering all aspects and in view of my foregoing discussions, interim order dated 13.05.2024 is hereby made absolute under the conditions that:

(i) The petitioners shall appear before the Investigating Officer within 1(One) week and cooperate with the investigation.

(ii) The petitioners shall appear before the Investigating Officer on every fortnight till completion of investigation.

(iii) The petitioners shall refrain from such activities with which they are alleged.

(iv) The petitioners shall not exercise threats to the witnesses and

(v) the petitioners shall not leave the jurisdiction of the Court without prior permission.

15. On breach of any of the bail conditions, bail order shall stand cancelled.

16. In the above terms, this Anticipatory Bail application stands disposed of.

17. Send back the Case Diary.

JUDGE

Comparing Assistant