

GAHC010072192024



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

Case No. : AB/906/2024

MOTLEB ALI AND 2 ORS.
S/O - LT. ISMAIL SHEIKH, R/O- VILL- BOLDIAR ALGA, P.O.-
MUTHAKHOWA, P.S.- SOUTH SALMARA, DISTRICT - SOUTH SALMARA -
MANKACHAR, ASSAM, PIN- 783323.

2: ALEK UDDIN @ ALEK CHAN
S/O TAHER ALI @ TOFER ALI
R/O VLL- BOLDIAR ALGA
P.O.UTHAKHOWA
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA
ASSAM
PIN-783323

3: SAKAT ALI
S/O KOBAD ALI
R/O VILL- BOLDIAR ALGA
P.O. MUTHAKHOWA
P.S. SOUTH SALMARA

DIST. SOUTH SALMARA
MANKACHAR

ASSAM
PIN-78332

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

08.04.2024

Heard Mr. S. Das, learned counsel for the petitioners. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam appearing for the State respondent.

2. This is an application under Section 438 of the Code of Criminal Procedure, for granting anticipatory bail to the accused petitioners, namely **1) Motleb Ali 2) Alek Uddin @ Alek Chan and 3) Sakat Ali**, who are apprehending arrest in connection with **South Salmara Police Station Case No. 25/2024** registered under Sections **147/148/ 149/436/326/325/307/302/385/ 427** of the Indian Penal Code, 1860.

3. The case diary, as called for, is placed before this Court.

4. 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. It is further alleged that while the brother of the informant was working in the field, the accused persons chased to him, with an intention to kill him and stabbed him on his head and also caused grievous injuries, for which he ultimately died.

5. Mr. S. Das, learned counsel for the petitioners submits that the petitioners have been wrongly implicated in the alleged offences and that they have no role

to play.

6. Mr. M.P. Goswami, learned Additional Public Prosecutor, appearing for the State respondents strongly opposed the prayer for bail. He submits from that the statements collected by the Investigating Officer under Section 161 Cr.P.C indicates that the petitioners along with other co-accused persons have set fire to the house of the petitioner. However, he fairly submits that there is no material available in the case diary to indicate that the petitioners have participated in the assault in relation to the brother of the informant, for which he ultimately died.

7. Considering the facts and circumstances of the case, this Court is of the considered view that custodial interrogation of the petitioner may not be justified for the ongoing investigation.

8. 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 one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:-

- (i) That the petitioners shall co-operate in investigation as and when required;
- (ii) That the petitioners 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, and
- (iii) That the petitioners shall refrain from such activities with which they are alleged.

9. Return the case diary.
10. This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant