

GAHC010073912024



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

**Case No. : AB/941/2024**

ATOWAR RAHMAN  
S/O AMIR ALI,  
RESIDENT OF KEOT CHUBA, PO AND PS DHULA, DIST DARRANG, ASSAM

2: JOINAL ABDIN  
S/O MOKSED ALI  
RESIDENT OF VILLAGE NO. 3  
DHALPUR  
PO DHALPUR  
PS SIPAJHAR  
DIST DARRANG  
ASSA

VERSUS

THE STATE OF ASSAM  
REP BY PP ASSAM

**Advocate for the Petitioner : MR G CHAMUAH**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MRS. JUSTICE MITALI THAKURIA**

**ORDER**

**Date : 06-05-2024**

- 1.** Heard Mr. S. Borthakur, the learned counsel for the petitioners and also heard Mr. D. Das, the learned Addl. PP appearing on behalf of the State respondent.
- 2.** 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] Atowar Rahman and [2] Joinal Abidin who are apprehending arrest in connection with Jogighopa PS Case No. 53/2024 registered under Section 392 of the Indian Penal Code.
- 3.** It is submitted by Mr. Borthakur, learned counsel for the petitioners that these two accused-petitioners are not at all involved with the alleged incident, in spite of that the Police from Jgighopa Police Station is frequently visiting their house to arrest them. More so, there are sufficient progress in the investigation and that the stolen area nuts are already been recovered by the IO and hence the custodial detention or interrogation may not be necessary for the purpose of investigation. However, they are ready to co-operate with the IO as and when their cooperation will be needed.
- 4.** In this context Mr. Das, learned Addl. PP has submitted that there are sufficient materials in the Case Diary and they are the kingpin in the FIR. More so, the major quantities of the areca nuts are yet to be recovered. Accordingly it is submitted that considering the materials in the Case Diary the custodial detention may be required to unearth some more facts of this case and hence prayed to reject the prayer for the privilege of pre-arrest bail to the present petitioners.
- 5.** Considering the submissions made by the learned counsel for both sides, I have also perused the Case Diary and it is seen that that there are sufficient

incriminating materials available in the Case Diary. Further as per the report of the IO they are the kingpin of the case and there are probability of tampering and hampering further investigation also cannot be denied in this case if the present-petitioners are granted with the privilege of pre-arrest bail.

**6.** After hearing the submissions made by the learned counsels of both sides and also considering the entire aspects of the case, nature of allegation as well as the conduct of the accused/petitioner, I find that it is not a fit case to extend the privilege of pre-arrest bail to the accused/petitioners.

The petition stands rejected.

The Case Diary be sent back.

**JUDGE**

**Comparing Assistant**