

GAHC010075722024



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

Case No. : AB/982/2024

ANOWAR HUSSAIN AND ANR.
S/O BILLAL HUSSAIN
R/O VILL- LAKHIPUR, P.S. KACHUMARA, DIST. BARPETA, ASSAM, PIN-
781127

2: ASRAFUL HOQUE
S/O BILLAL HUSSAIN
R/O VILL- LAKHIPUR
P.S. KACHUMARA
DIST. BARPETA
ASSAM
PIN-78112

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

22.05.2024

Heard Mr. S. Islam, learned counsel for the petitioners. Also heard Mr. P.

Borthakur, learned Addl. P.P., Assam appearing for the State respondent.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the petitioners, namely **1) Anowar Hussain** and **2) Asraful Hoque** in connection with **PRC Case No.2306/2023** arising out of **Kachumara P.S. Case No.23/2023** under Sections **120(B)/147/148/149/ 448/326/302** of the IPC (**G.R. Case No.517/2023**).

3. The scanned copy of the records of PRC Case No. 2306/2023 is received.

4. The case of the prosecution, in brief, is that on 29.03.2023 at around 10 a.m., while one Hanif Ali was ploughing his own ancestral land at Lakhipur Char, the FIR named accused No.1, who was trying to take possession of the said land, came along with 30/40 other persons armed with dangerous weapons. The accused No.1 asked the Gaonburah, i.e., informant's brother to distribute the land and since he did not do so, the accused No.1 along with the remaining accused persons attacked on his neck and head with sharp weapons for which he got seriously injured and fell down on the ground. The informant is also alleged to have been attacked. Accordingly, a case was registered.

5. Mr. S. Islam, learned counsel for the petitioners submits that the petitioners are totally innocent and have been wrongly implicated in the matter. He further submits that the petitioner No.2 is a minor.

6. Mr. P. Borthakur, learned Addl. P.P. on the other hand, opposes the prayer for bail. He submits that the scanned copy of the case records of PRC Case No. 2306/2023 indicates that the statements of the witnesses have been recorded by the Investigating Officer, out of which from the statements of 3 witnesses it appears that the petitioners were involved in the offences alleged. He further

submits that in the meantime, the learned trial Court has also issued P&A against the petitioners.

7. I have heard the submissions made at the Bar and perused the materials available on record.

8. It appears from the statements of 3 witnesses recorded by the Investigating Officer under Section 161 Cr.P.C. that the petitioners are involved in the offences alleged. It further appears that P&A has been issued by the learned trial Court against the petitioners. It also appears that the petitioners are absconding and despite attempts to execute the order of attachment against the petitioners the same could not be carried out in view of the fact that there are no property of the petitioners located.

9. Considering the entirety of the matter this Court is of the considered view that the petitioners have failed to make out a case for grant of anticipatory bail at this stage.

10. Accordingly, the anticipatory bail application stands rejected.

11. The anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant