

GAHC010081322024



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

Case No. : AB/1104/2024

ABUL KASEM @ KASEM ALI AND 5 ORS.
S/O MOKBUL HUSSAIN,
VILL.- SUAPATA, P.S.- BILASIPARA, DIST.- DHUBRI (ASSAM).

2: HASEN ALI
S/O AIJUDDIN MONDAL

VILL.- SUAPATA
P.S.- BILASIPARA
DIST.- DHUBRI (ASSAM).

3: MOKBUL HUSSAIN
S/O AIJUDDIN HUSSAIN

VILL.- SUAPATA
P.S.- BILASIPARA
DIST.- DHUBRI (ASSAM).

4: SAFER ALI
S/O AIJUDDIN HUSSAIN

VILL.- SUAPATA
P.S.- BILASIPARA
DIST.- DHUBRI (ASSAM).

5: SOMIRAN BIBI
W/O HASEN ALI

VILL.- SUAPATA
P.S.- BILASIPARA
DIST.- DHUBRI (ASSAM).

6: SAIMONA BEGUM @ SAIMONA KHATUN
D/O HASEN ALI

VILL.- SUAPATA
P.S.- BILASIPARA
DIST.- DHUBRI (ASSAM)

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR. A A MONDAL

Advocate for the Respondent : PP, ASSAM

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

13.05.2024

Heard Mr. A. Alam, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent.

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, who has been apprehending arrest in connection with Bilasipara P.S. Case No. 59/2024, under Sections 143/147/148/149/325/326 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner, Mr. Alam, that the accused/petitioners are innocent and they are not involved in the offence as stated in the FIR. He also submits that the case is purely civil in nature and the incident had occurred only due to mortgaged of land. He further submitted that only the petitioner No.2 was present in the place of occurrence and other petitioners are not at all involved in the alleged offence. Accordingly, he prays for pre-arrest bail and also

submits that the accused/petitioners are ready and willing to co-operate the IO with further investigation of the case, if the same is allowed.

In this context, the learned Additional Public Prosecutor, Mr. Sharma, has submitted that there are several incriminating materials available against the accused/petitioners except the petitioner No.6 namely Saimona Begum. He further submitted from the injury report, it is seen that apart from other injury sustained by the victim, he had sustained grievous injury in his shoulder which is found to be 7 inch length and 4 inch depth caused by the petitioner No.2. He further submitted that even after the victim fall down on the ground, the other petitioner Nos. 1, 3, 4 and 5 attacked the victim with lathi and other object. However, there is no allegation against the petitioner No.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/petitioners, I find it appropriate to reject the prayer made on behalf of the petitioner Nos. 1 to 5. However, the petitioner No.6 is granted with the pre-arrest bail finding her non-involvement in the instant case.

Accordingly, it is provided that in the event of arrest of the accused/petitioner, namely, Saimona Begum, in connection with Bilasipara P.S. Case No. 59/2024, under Sections 143/147/148/149/325/326 of IPC, she shall be enlarged on pre-arrest bail on her executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall make herself available for interrogation by the Investigating Officer within 7(seven) from today.
- (ii) that the petitioner 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 her from disclosing such facts to the Court or to any police officer; and

- (iii) that the petitioner shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

In terms of above, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant