

GAHC010088332024



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

Case No. : AB/1141/2024

MD. SAIDUL ISLAM AND 4 ORS.
S/O LATE MANSUR ALI
R/O PUB- LARIMUKH
P.S. RUPAHIHAT
DIST. NAGAON, ASSAM

2: MD. AMDADUL HOQUE
S/O JAYNAL ABDIN
R/O PUB- LARIMUKH
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM

3: MD. INAMUL HAQUE
S/O JAYANAL ABADIN
R/O PUB LARIMUKH
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM

4: SOLMAN ALI
S/O ABDUL KHALEK
R/O PUB LARIMUKH
P.S. RUPAHIAHAT
DIST. NAGAON
ASSAM

5: ARIFUL ISLAM
S/O ABDUL KHALEK
R/O PUB LARIMUKH
P.S. RUPAHIHAT
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 16.05.2024

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

This anticipatory bail application under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely, **1. Md. Saidul Islam, 2. Md. Amdadul Hoque, 3. Md. Inamul Haque, 4. Solman Ali and 5. Ariful Islam**, who have been apprehending arrest in connection with **Rupahihat P.S. Case No. 15/2024** registered u/s **147/148/149/341/325/307/302/506** of the IPC.

The case of the prosecution is that on 28.01.2024, an FIR has been lodged alleging inter alia that on 27.01.2024 at around 3:00 PM in the day time, an altercation took place between the informant's father and the accused persons regarding distribution of certificate of Jon Junali Women Self Help Group. Thereafter, approximately one and half hours later, the accused persons equipped with sharp weapons, lathi, dao in their hands came to the govt. road in front of his house and assaulted his father with lathi, dao as his father was alone and threw him on the ground. As a result, his father sustained grievous

injury and ultimately succumbed to dead.

Mr. S. M. Abdullah P, learned counsel for the petitioners submits that petitioners are no way involved in the case, as stated in the FIR and that the petitioners are the neighbours of the informant and on 27.01.2024 in the afternoon, the petitioners, after hearing some hue and cry, came out on the roadside near the house of the informant and went near the place of occurrence. He further submits that the petitioners are ready and willing to co-operate with the investigation.

Mr. D. Das, learned Addl. Public Prosecutor, strongly opposes the prayer for anticipatory bail. He submits that the Investigating Officer has collected the statements from the witnesses, who have stated that the present petitioners were present at the place of occurrence. He further submits that there are materials available on record, which indicates that there was an altercation/scuffle between the informant's side and the accused persons.

I have heard the learned counsels for the parties and perused the materials available on record.

It appears that pursuant to the altercation between the informant side and the accused group in which both the parties have sustained injuries, the incident occurred. It further appears that there is no adverse report as regards the antecedent of the petitioner. The Investigating Officer has also not placed anything on record to indicate that the petitioners shall not co-operate with the investigation and /or will flee from justice.

Considering the totality of the matter, this Court is of the considered view that custodial interrogation of the petitioners may not be necessary for the ongoing investigation.

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. 30,000/- each** with one local surety of like amount to the satisfaction of the arresting authority, subject, of course, to the following conditions:

(i) That the petitioners shall appear before the Investigating Officer within 10 days, failing which on and from the 11th day, this pre-arrest bail order shall have no force; and

(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 Police Officer or the Court; and

(iii) That the petitioners shall refrain from committing any similar offences in future, of which they are suspected of commission.

Return the case diary.

This anticipatory bail application accordingly stands disposed of.

JUDGE

Comparing Assistant