

GAHC010091732024



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

Case No. : AB/1188/2024

RIAJ UDDIN @ RIYAJUDDIN
S/O- SHOKKUR ALI ALI ALIAS MD. SUKUR ALI, R/O- VILL. NO. 2
BHATIAKHALI, P.O. KATHPARA BAZAR, P.S. RUPAHIHAT, DIST. NAGAON,
ASSAM, PIN- 782120.

2: MUSST. AFIYA BEGUM
C/O JOHUR ALI
R/O- VILL. NO. 2 BHATIAKHALI
P.O. KATHPARA BAZAR
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782120.

3: SHUKKUR ALI @ MD. SUKUR ALI
S/O LATE JAMIR UDDIN

R/O- VILL. NO. 2 BHATIAKHALI
P.O. KATHPARA BAZAR
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782120.

4: GULAJAR HUSSAIN @ GULZAR HUSSAIN
S/O MAKABUL HUSSAIN @ MUKBUL HUSSAIN

R/O- VILL. NO. 2 BHATIAKHALI
P.O. KATHPARA BAZAR
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782120.

5: MD.JOHUR ALI @ JAHUR ALI
S/O SUKUR ALI @ SHUKKUR ALI

R/O- VILL. NO. 2 BHATIAKHALI
P.O. KATHPARA BAZAR
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782120

VERSUS

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

2:CHANDRA KT. PHOKAN
I/C SAMAGURI OUT POST UNDER RUPAHIHAT POLICE STATION
DIST NAGAON
ASSA

Advocate for the Petitioner : MR S HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 17.05.2024

Heard Mr. R.C. Das, learned counsel for the applicants and also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, appearing for the State respondents.

2. This application under Section 438 Cr.P.C. is preferred by five applicants, namely, Riaj Uddin @ Riyajuddin, Musstt. Afiya Begum, Shukkur Ali @ Md. Sukur Ali, Gulajar Hussain @ Gulzar Hussain and Md. Johur Ali @ Jahur Ali, who have been apprehending arrest in connection with Rupahihat P.S. Case No.97/2024, under Sections 447/294/353/506 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of one FIR lodged by S.I. Chandra Kanta Phukan, I/C Ambagan P.P. under Rupahihat P.S. on 27.04.2024. The essence of allegation made in the FIR dated 27.04.2024, is that on that day, at about 11 a.m., the informant, along with other police staff proceeded to the house of Musst. Hafijur Nehar to enquire about the FIR lodged by her, and then they were attacked by some unruly persons, namely, Md. Johur Ali, Musst. Afiya Begum, Md. Sukur Ali, Gulzar Hussain, Riyajuddin and others, and prevented them from discharging their official duties and abused them with abusive words.

4. Mr. Das, learned counsel for the applicants submits that the applicants are innocent and they are ready to cooperate with the investigating agency. Mr. Das has further pointed out that the case has been registered under Sections 447/294/353/506, IPC, and except Section 353, IPC, rest of the offences are bailable offence, and therefore, it is contended to allow the application.

5. On the other hand, Mr. B.B. Gogoi, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that investigation is going on and that some witnesses have been examined and that the allegations levelled in the FIR are not so serious in nature.

6. Having heard the submission of learned Advocates of both sides, I have gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Gogoi, learned Addl. Public Prosecutor.

7. In view of the materials collected so far in the case diary and also in view of the nature and gravity of the offence and the punishment prescribed for the same as well as the stage of investigation, custodial interrogation of the applicants seems to be not warranted here in this case and therefore, this Court

is inclined to allow the application.

8. Accordingly, it is provided that in the event of arrest of the applicants in connection with Rupahihat P.S. Case No.97/2024, under Sections 447/294/353/506 IPC, they shall be released on pre-arrest bail on executing a bond of Rs. 50,000/- each, with one surety of like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:

- (i) The applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) The applicants 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) The applicants shall not leave the jurisdiction of the learned SDJM (M), Kaliabor without prior permission.

9. In terms of above, this application stands disposed of.

10. Case diary be returned.

JUDGE

Comparing Assistant