

GAHC010092692024



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

Case No. : AB/1205/2024

MD. SAMIRUDDIN @ CHAMIR UDDIN AND 6 ORS.
S/O LATE CHABULLAH
R/O BALIPARA JANGAL, P.O. PHOLIAMARI PATHAR, P.S. BHURAGAON,
PIN-782127, DIST. MORIGAON, ASSAM

2: ASIKUL HAQUE
S/O MD. SAMIRUDDIN @ CHAMIR UDDIN
R/O BALIPARA JANGAL
P.O. PHOLIAMARI PATHAR
P.S. BHURAGAON
PIN-782127
DIST. MORIGAON
ASSAM

3: INDAJUL HAQUE
S/O MD. SAMIRUDDIN @ CHAMIR UDDIN
R/O BALIPARA JANGAL
P.O. PHOLIAMARI PATHAR
P.S. BHURAGAON
PIN-782127
DIST. MORIGAON
ASSAM

4: SAHIDUL ISLAM
S/O MD. SAMIRUDDIN @ CHAMIR UDDIN
R/O BALIPARA JANGAL
P.O. PHOLIAMARI PATHAR
P.S. BHURAGAON
PIN-782127
DIST. MORIGAON
ASSAM

5: MAKBUL HUSSAIN
S/O MD. SAMIRUDDIN @ CHAMIR UDDIN

R/O BALIPARA JANGAL
P.O. PHOLIAMARI PATHAR
P.S. BHURAGAON
PIN-782127
DIST. MORIGAON
ASSAM

6: RUHUL AMIN
S/O ABDUR RAHMAN
R/O JARIBOR
P.O. PHOLIAMARI PATHAR
P.S. BHURAGAON
PIN-782127
DIST. MORIGAON
ASSAM

7: BAHARUL HOQUE
S/O INTAZ ALI
R/O JARIBOR
P.O. PHOLIAMARI PATHAR
P.S. BHURAGAON
PIN-782127
DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A BARUAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 13.05.2024

Heard Mr. A. Baruah, learned counsel for the applicants. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with Azara P.S. Case No. 85/2024, under Sections 407/379 of the IPC, this application under Section 438 Cr.P.C. has been preferred by seven applicants, namely, Md. Samiruddin @ Chamir Uddin, Asikul Haque, Indajul Haque, Sahidul Islam, Makbul Hussain, Ruhul Amin and Baharul Hoque, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Anurag Agarwal on 13.04.2024. The essence of allegation made in the FIR dated 13.04.2024 is that on 12.04.2024, at about 7:30 p.m., 200 packets of moong dal 30 kg in each packet, 100 packets of chana dal 30 kg in each packet, 500 packets of mosur dal 30 kg in each packet, worth of Rs. 19,07,307/- and 100 packets of moong dal 30 kg in each packet worth of Rs. 3,31,821/- were loaded in a Truck, bearing Registration No. NL-01-K-1761, belonging to R.K. Transport, Azara driven by one Umad Ali, and the consignment was supposed to be delivered to Maya Product, Barpetaroad. But, later on, he found the vehicle along with the loaded articles missing and also found the mobile number of the driver switched off.

4. Mr. Baruah, learned counsel for the applicants submits that the applicants are innocent and no way involved with the offence alleged in the FIR, and that they have received notice under Section 41A, Cr.P.C. and they will appear before I.O., and that they will cooperate with the investigating agency, and that one of the co-accused has already been granted bail by this Court, vide order dated 10.05.2024, in Bail Appln. No. 1241/2024, and that some of the stolen articles have already been recovered, and therefore, it is contended to allow the application.

5. On the other hand, Mr. P.S. Lahkar, the learned Addl. Public Prosecutor has produced the case diary before this Court and submits that the I.O. has

collected sufficient incriminating materials against the applicants, namely, Asikul Haque, Indajul Haque and Sahidul Islam and that custodial interrogation of all the applicants is indispensable, in the interest of investigation, and therefore, Mr. Lahkar has opposed the application.

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. P.S. Lahkar, learned Addl. Public Prosecutor.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR against the applicants, namely, Asikul Haque, Indajul Haque, Sahidul Islam and Makbul Hussain. Investigation is still going on and some of the stolen articles are yet to be recovered. And extending the privilege of pre-arrest bail to the applicants named above will misdirect the investigation.

8. Having regards to the above, and also having regards to the nature and gravity of the offence and the punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the aforementioned applicants and accordingly, their prays stands dismissed.

9. However, in view of the materials collected so far in the case diary against applicants, namely, Md. Samiruddin @ Chamir Uddin, Ruhul Amin and Baharul Hoque, this Court is of the view that their custodial interrogation may not be required, in the interest of investigation, and therefore, this Court is inclined to extend the privilege of pre-arrest bail to the aforementioned applicants.

10. Accordingly, it is provided that in the event of arrest of the applicants, namely, Md. Samiruddin @ Chamir Uddin, Ruhul Amin and Baharul Hoque in

connection with Azara P.S. Case No. 85/2024, under Sections 407/379 of the 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 C.J.M., Kamrup(M), Guwahati without prior permission.

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

12. Case diary be returned.

JUDGE

Comparing Assistant