

GAHC010094812024



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

Case No. : AB/1234/2024

UTTAM DAS AND ANR
S/O KHUSHI MOHAN DAS
R/O P.O. LALMATI, HARIPUR, BONGAIGAON, ASSAM,
PIN-783384

2: SMTI. DIPTI DAS
W/O UTTAM DAS
R/O P.O. LALMATI

HARIPUR
BONGAIGAON
ASSAM
PIN-78338

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M J BARUAH, MR. A. ALI

Advocate for the Respondent : PP, ASSAM,

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

01.08.2024

Heard Mr. M. J. Baruah, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Abhayapuri P.S. Case No.110/2024 under Sections 120(B)/326/307 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioners, Mr. Baruah, that the present petitioners are innocent and they have not committed any offence as stated in the FIR. Rather, victim of the case visited to the house of the petitioners and tried to commit rape on the petitioner No.2 for which she also lodged an FIR which has been registered as Abhayapuri Case No.111/2024. Thus, with some false and concocted allegation the case has been lodged against the accused/petitioners only with an intention to harass them. Further, he submits that the accused/petitioners are still ready and willing to co-operate with the I.O. in further investigation of the case, if they are granted the privilege of pre-arrest bail.

On the other hand, Mr. Borthakur, learned Additional Public Prosecutor, has submitted that, based on the case diaries and case record, it is seen that there was an illicit relationship between the victim and petitioner No. 2. In this

context, petitioner No. 1 allegedly assaulted the victim, causing grievous injuries. Thus, he contends that the dispute arose solely due to this illicit relationship. Therefore, he submits that custodial interrogation of the accused/petitioners may be necessary in this case to unearth some more facts of the case.

Considering the submissions of learned counsels of both sides and also considering the nature of offence as well as the materials in the Case Diaries, I find that custodial interrogations of the present accused/petitioners are not necessary in this case and therefore, I find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioners.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, **1. Sri Uttam Das** and **2. Smti. Dipti Das**, in connection with Abhayapuri P.S. Case No.110/2024 under Sections 120(B)/326/307 of the Indian Penal Code, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 20,000/- (Rupees twenty thousand) only each with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

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

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

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

The Case Diaries be sent back.

JUDGE

Comparing Assistant