

GAHC010108062024



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

Case No. : AB/1300/2024

KURBAN ALI AND 3 ORS.
S/O LATE KALLAMIYAN
R/O VILL- BECHIMARI JUNGLE
P.S. DALGAON
DIST. DARRANG
ASSAM

2: MD. RAHIMUDDIN
S/O LATE SURUJ ALI
R/O VILL- NO. 3 CHIKONMATI
P.S. DALGAON
DIST. DARRANG
ASSAM

3: AHMED ALI
S/O LATE ABDUR ROSID
R/O VILL- CHENGULIMARI
P.S. ROWTA
DIST. UDALGURI
ASSAM
VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR A ALI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

19.06.2024

- 1.** Heard Mr. T.K. Bhuyan, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor appearing for the State of Assam.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, 1. Kurban Ali, 2. Md. Rahimuddin and 3. Ahmed Ali, who are apprehending their arrest in connection with Rowta P.S. Case No. 54/2024.
- 3.** It is submitted by the learned counsel for the petitioners that after filing of the instant anticipatory bail applications, the petitioner No. 2, Md. Rahimuddin was arrested on 21.05.2023.
- 4.** It is further submitted by the learned counsel for the petitioners that the said petitioner has already been granted bail by this court, in Bail Application No. 1556/2024 today itself, i.e. on 19.06.2024.
- 5.** The gist of accusation in this case is that on 01.05.2024, one Sri Ramesh Deka had lodged an FIR before the Officer-In-Charge of Rowta Police Station, *inter alia*, alleging that the present petitioner took Rs. 5.50 Lakhs from the informant on the pretext of giving him a job, however, neither any job was offered to him nor the money was returned back.
- 6.** Learned counsel for the petitioners has submitted that the instant bail applications is now pursued for remaining two petitioners, namely, Ahmed Ali and Kurban Ali.

7. It is submitted by the learned counsel for the petitioners that the main allegation in the FIR was against Kismat Ali @ Rahimuddin Ali, who has already been granted bail by this Court in Bail Application No. 1556/2024 and as the matter has already been compromised between the informant and the main accused.

8. Learned counsel for the petitioners has also submitted that the above-named two petitioners, namely, Ahmed Ali and Kurban Ali are ready to co-operate in the investigation.

9. On the other hand, learned Additional Public Prosecutor has produced the case diary of Rowta P.S. Case No. 54/2024 and has submitted that the Investigating Officer has already recorded the statement of relevant witnesses under Section 161 of the Code of Criminal Procedure, 1973.

10. I have considered the submissions made by learned counsel for both the sides and have perused the materials available on record, including the case diary of Rowta P.S. Case No. 54/2024. As the main accused of the case, namely, Kismat Ali @ Rahimuddin Ali has already been granted bail by this Court, in Bail Application No. 1556/2024 and as investigation has fairly progressed, this Court is of considered opinion that custodial detention of the above-named two petitioners may not be necessary for fair completion of the investigation of Rowta P.S. Case No. 54/2024.

11. In view of above, the petitioners, namely, petitioner No. 1 Kurban Ali, and petitioner No. 3 Ahmed Ali, are hereby directed to appear before the Investigating Officer of Rowta P.S. Case No. 54/2024, within a period of 10 days from the date of this order and co-operate in the investigation. If they do so, in the event of their arrest in connection with Rowta P.S. Case No. 54/2024, the above named-petitioners shall be allowed to go on interim bail of Rs. 30,000/-

each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the conditions that:-

(i) the petitioners shall co-operate in the investigation; and (ii) the petitioners shall not directly or indirectly make any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court.

12. With the above observations, this anticipatory bail application is hereby disposed of.

13. Send back the case diary.

JUDGE

Comparing Assistant