

GAHC010108072024



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

Case No. : AB/1309/2024

DIPTI HATIMURIA GOGOI AND 4 ORS.
W/O LATE BIDYADHAR HATIMURIA
R/O 3 NO. RONGAJAN
P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM

2: TARU DEVI SHARMA
W/O LATE GIRI SHARMA
R/O 3 NO. RONGAJAN
P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM

3: LIPUL GOGOI
S/O SRI RAMESH GOGOI
R/O 3 NO. RONGAJAN
P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM

4: BEAUTY GOGOI
W/O SRI LIPUL GOGOI
R/O 3 NO. RONGAJAN
P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM

5: PORI GOGOI
D/O SRI LIPUL GOGOI
R/O 3 NO. RONGAJAN
P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP
ASSAM

2:LAKHAN TANTI
S/O- LATE SUKURU TANTI
R/O- 3 NO RONGAJAN
P.O- BAKULONI CHARIALI
P.S- DULIAJAN

DIST- DIBRUGARH
ASSAM

3:BISHAL BHUMIJ
S/O- KANU BHUMIJ
R/O- 3 NO RONGAJAN
P.O- BAKULONI CHARIALI
P.S- DULIAJAN

DIST- DIBRUGARH
ASSAM

Advocate for : MR S M ABDULLAH P
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : **12.08.2024**

Heard Mr. D. Saikia, learned counsel for the petitioners. Also heard Mr. D.P. Goswami, learned Additional Public Prosecutor for the State of Assam and Ms. P. Das, learned *Amicus Curiae* for the informant/respondent Nos. 2 and 3.

By this petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioners, namely, **(1) Dipti Hatimuria Gogoi (2) Taru Devi Sharma (3) Lipul Gogi (4) Beauti Gogoi**

(5) Pori Gogoi, have prayed for granting pre-arrest bail, apprehending arrest in connection with **Duliajan P.S. Case No. 105/2024** under Section 326/34 IPC r/w Section 75 of J.J. (Care and Protection of Children) Act, 2015 and r/w Section 12 of POCSO Act, 2012.

The learned counsel for the petitioners submits that the allegation against the petitioners as per FIR is that on the date of the incident, two boys entered into the shop of the petitioners for committing theft, as a result of which, the petitioners assaulted them with sharp weapon and compelled to throw stool and urine. According to learned counsel for the petitioners, Section 12 of POCSO Act and J.J. Act are not attracted herein this case. Considering the nature of the offence, learned counsel for the petitioners prays that the benefit of pre-arrest bail may be extended to the petitioners.

On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State has produced the case diary and submitted that the injury sustained by the victims are simple in nature. As such, he has submitted that the privilege of pre-arrest bail may be considered to the petitioners.

Ms. Das, learned *Amicus Curiae* representing informant/respondent Nos. 2/3 has submitted that the provision of Section 12 of POCSO Act is not attracted herein this case. Therefore, she has no objection if the petitioners are enlarged on bail.

I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

It appears the injury sustained by the victims are simple in

nature. The provision of POCSO Act and J.J. Act are not attracted herein this case.

In view of the above, this Court finds that custodial interrogation of the petitioners is not required for the purpose of investigation of the case. Therefore, the privilege of pre-arrest bail is granted to the petitioners.

Accordingly, it is provided that in the event of arrest of the petitioners, named above, in connection with **Duliajan P.S. Case No. 105/2024** under Section 326/34 IPC r/w Section 75 of J.J. (Care and Protection of Children) Act, 2015 and r/w Section 12 of POCSO Act, 2012, they shall be released on furnishing bail bond of **Rs.10,000/-** each with **a suitable surety** each of the like amount, to the satisfaction of the arresting authority.

The direction for pre-arrest bail is subject to the conditions that the petitioners:

(a) shall appear before the Investigating Police Officer within ten days from today and shall co-operate with the investigation;

(b) 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.

The anticipatory bail application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant