

GAHC010106382024



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

Case No. : AB/1399/2024

ABUL KASEM @ KASEM ALI AND 3 ORS.
S/O MOKBUL HUSSAIN, R/O VILL- SUAPATA, P.S.-BILASIPARA, DIST-
DHUBRI (ASSAM)

2: MOKBUL HUSSAIN
S/O AIJUDDIN MONDAL
R/O VILL- SUAPATA
P.S.-BILASIPARA
DIST- DHUBRI (ASSAM)

3: SAFER ALI
S/O AIJUDDIN MONDAL
R/O VILL- SUAPATA
P.S.-BILASIPARA
DIST- DHUBRI (ASSAM)

4: SOMIRAN BIBI
W/O HASEN ALI
D/O TAYEB ALI MANDOL
R/O VILL- SUAPATA
P.S.-BILASIPARA
DIST- DHUBRI (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N J DUTTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 28.06.2024

Heard Mr. N. J. Dutta, learned counsel for the petitioners. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioners in connection with Bilasipara P.S. Case No. 59/2024 under Sections 143/147/148/149/325/326 of the Indian Penal Code.

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

It is submitted by the learned counsel for the petitioner, Mr. Dutta that though it is fact that there was a land dispute between the parties, i.e. the co-accused namely Hasen Ali; the victim namely Sahar Ali, and the informant and during the altercation and tussle between the parties, the said victim had sustained injury near his left shoulder. It is submitted that the present petitioners were not present at the place of occurrence and had not participated in assaulting the victim and thus, they are not at all involved in the alleged offence. Further, during the pendency of the case, the accused/petitioner No.1 namely Abul Kasem @ Kasem Ali got arrested in connection with this case and hence, the petition filed on his behalf has become infructuous. He further submits that the petitioner Nos. 2, 3 and 4 are innocents and they are accordingly praying for grant of interim pre-arrest bail and also submits that they are ready to co-operate with the investigation of this case, if the same is

allowed.

In this context, Mr. Baruah, learned Additional Public Prosecutor, has submitted that from the injury report available in the Case Diary, it is seen that the victim had sustained grievous injury near his left shoulder and the co-accused had assaulted the victim with a sharp object (spade) and thus, he raised objection to grant the privilege of pre-arrest bail to the accused/petitioner Nos. 2, 3 and 4.

Considering the submissions made by the learned counsels of both sides as well as considering the materials available in the case diary and the statement of the eye witnesses and the informant, 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, **2. Mokbul Hussain, 3. Safer Ali** and **4. Somiran Bibi**, in connection with Bilasipara P.S. Case No. 59/2024 under Sections 143/147/148/149/325/326 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) days.
- (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.

JUDGE

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Comparing Assistant