

GAHC010111972024



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

Case No. : AB/1473/2024

UKIL ALI @ UKIL HUSSAIN AND 2 ORS
S/O DELDAR ALI, R/O VILL- NALBARI, P.O.-SILGARA, P.S. AND DIST-
KOKRAJHAR, ASSAM, PIN-783348

2: AMINUR SHEIKH @ AMINUL ALI
S/O ASHAN ALI
R/O VILL- NALBARI
P.O.-SILGARA
P.S. AND DIST-KOKRAJHAR
ASSAM
PIN-783348

3: SUMAR ALI @ SAMIR ALI
S/O KARIMUDDIN SHEIKH
R/O VILL- BAMUNGAON
P.O.-SILGARA
P.S. AND DIST-KOKRAJHAR
ASSAM
PIN-78334

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2: JALKUMA BIBI
W/O SANOWAR SK
R/O VILL- BETHAGAON
NALBARI
P.O.-BASHBARI
P.S.-KOKRAJHAR
DIST- KOKRAJHAR
ASSAM
PIN-78333

Advocate for the Petitioner : MR G CHAMUAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 16-07-2024

Heard Mr. G. Chamuah, learned counsel for the petitioners namely 1. Ukil Ali @ Ukil Hussain, 2. Aminur Sheikh @ Aminul Ali and 3. Sumar Ali @ Samir Ali.

2. The petitioners have filed this application under Section 438 of the Code of Criminal Procedure, 1973 with prayer for pre-arrest bail as they are apprehending arrest in connection with Kokrajhar Police Station Case No. 28/2024 under Sections 109/376 of the Indian Penal Code, 1860 corresponding to G.R. No. 52/2024.

3. Heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State.

4. The allegation against the petitioners is that the petitioner No. 2 was present when the accused No. 1 Rafikul Islam committed rape on the victim. The other petitioners also abetted in the commission of the alleged offence.

5. The learned Additional Public Prosecutor has raised objection stating that there are some materials against the petitioner No. 2 in the Case Diary.

6. I have perused the Case Diary.

7. The merits of this case are not brought to the fore as this case is still under investigation. The main accused is the accused No. 1 Rafikul Islam named

in the FIR. Investigation has progressed to a considerable extent. The statement of the victim has been recorded under Section 164 of the CrPC. It appears that custodial interrogation may not be required. The petitioners are local residents and they are not flight risks. Moreover, the petitioners have pledged to cooperate with the remaining part of the investigation.

8. Considering all aspects and in view of my foregoing discussions, petition is allowed.

9. In the event of their arrest, the petitioners shall be enlarged on bail on furnishing a bail bond of *Rs.50,000/- (Rupees Fifty Thousand)* each with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:

(i) The petitioners shall appear before the Investigating Officer within 7(Seven) days and cooperate with investigation.

(ii) The petitioners shall not exercise threats to witnesses or tamper with the evidences and,

(iii) the petitioners shall not leave the jurisdiction of the Court without prior permission.

10. On breach of any of the bail conditions, bail order shall stand cancelled.

11. In the above terms this Anticipatory Bail application stands disposed of.

12. Send back the Case Diary.

JUDGE

Comparing Assistant