

GAHC010112652024



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

Case No. : AB/1482/2024

ABDUL HAKIM AND ANR
S/O BAHAR ALI, R/O VILL- NO.1 PALAHARTARI, P.S.-NAGARBERA, DIST-
KAMRUP, ASSAM

2: ROFIJUL HOQUE @ TIKEN ALI
S/O BAHAR ALI
R/O VILL- NO.1 PALAHARTARI
P.S.-NAGARBERA
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 29.07.2024

Heard Mr. N. Uddin, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This is an application 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 Nagarbera P.S. Case No. 61/2024, under Sections 341/342/326/307/387/34 of the Indian Penal Code.

Case Diary has been received. Perused the same. Heard both sides.

It is submitted by Mr. Uddin, learned counsel for the petitioners, that the present accused/petitioners are the accused Nos. 1 & 4 of the case and they are not at all involved in the alleged offence. However, it is a fact that the brother of the informant, i.e. the victim, was assaulted by the accused No. 2 as he found his wife in a compromising situation with the victim. Listening "Halla" from the accused No. 2, the present accused/petitioners also went there and they tried to stop the accused No. 2 from assaulting the victim. But they are not involved in the alleged offence. But, it is admitted that they arrived at the place of occurrence hearing "Halla" in the house of the accused No. 2. Further he submitted that they are the law abiding person and will co-operate with the I.O. in further investigation of this case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. Sharma, learned Additional Public Prosecutor, has submitted that from the Injury Report, it is seen that the victim sustained fracture injury on his hand and leg and he was assaulted mainly by the accused No. 2. But, the present accused/petitioners also take part in the said offence.

After hearing the submissions made by the learned counsels for both sides, I have also perused the Case Diary and materials available in the Case Diary and other aspects of the case, I find that custodial interrogation of the present accused/ petitioners may not be necessary for the interest of investigation and accordingly, I find it a fit case to extend 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, (i) Abdul Hakim & (ii) Rofijul Hoque @ Tiken Ali, in connection with Nagarbera P.S. Case No. 61/2024, under Sections 341/342/326/307/387/34 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 with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioners shall appear before the Investigating Officer of the case within a period of 10 (ten) days from today;
- (ii) that the petitioners shall fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and

when required in connection with the investigation of the aforesaid P.S. Case; and

- (iii) 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 him from disclosing such facts to the Court or to any police officer.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant