

GAHC010112712024



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

Case No. : AB/1487/2024

LAKHI MALLIK AND ANR
W/O LATE RAJBIHARI MALLIK, R/O PANDU NO. 04, FERRY GHAT COLONY,
P.S.-JALUKBARI, GUWAHATI-781012, KAMRUP (M), ASSAM

2: RIKKI MALLIK
S/O LATE RAJBIHARI MALLIK
R/O PANDU NO. 04
FERRY GHAT COLONY
P.S.-JALUKBARI
GUWAHATI-781012
KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 14-06-2024

Heard Mr. M. Biswas, learned counsel for the petitioners Lakhi Mallik and

Rikki Mallik.

2. The petitioners have filed this application under Section 438 of the Code of Criminal Procedure, 1973 (CrPC for short) with prayer for pre-arrest bail as they are apprehending arrest in connection with Jalukbari Police Station Case No. 261/2024 under Sections 120B/143/307/323/354/354B/458/506 of the Indian Penal Code, 1860 (IPC for short).

3. Also heard Ms. N. Das, learned Additional Public Prosecutor for the respondent State. The learned Additional Public Prosecutor has submitted that Case Diary is received without the medico-legal report of the victim Mohan Rajak. It is also submitted by the learned Additional Public Prosecutor that there are incriminating materials against the petitioners in the Case Diary.

4. I have scrutinized the Case Diary. Indeed there are incriminating materials against the petitioners in the Case Diary. I have also considered the submission that the petitioners are willing to cooperate with the remaining part of the investigation.

5. It is submitted on behalf of the petitioners that the petitioners have earlier lodged an FIR but it was not registered by the police. The petitioner No. 2 was also assaulted and he has sustained grave injuries on his face. Annexure-4 of the petition reveals the injuries sustained by the petitioner No. 2. It is submitted that a false case has been slammed against the petitioners. The petitioners are booked under Section 323 of the IPC and thus it is apparent that no case under Section 307 has been made out against the petitioners.

6. I have considered the submission that the petitioners are willing to abide by any stringent bail conditions if imposed upon them. I have also considered the progress of investigation. It appears that custodial interrogation may not be

required for the progress of investigation.

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

8. 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 1 (One) week and cooperate with the investigation.

(ii) The petitioners shall refrain from such activities with which they are alleged.

(iii) The petitioners shall not exercise threats to the witnesses.

(iv) The petitioners shall not leave the jurisdiction of the jurisdictional Court without prior permission.

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

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

11. Send back the Case Diary.

JUDGE

Comparing Assistant