

GAHC010128572024



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

Case No. : AB/1666/2024

AKHIRUL ISLAM
S/O LATE BADARUDDI SARKAR @ BUDU SARKAR, R/O VILL-
PUBERGAON (JHOWDANGA PART---), P.O.-JHOWDANGA, P.S.-
MANKACHAR, DIST-SOUTH SALMARA MANKACHAR (ASSAM), PIN-
783131

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M ISLAM, MS A KHATUN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

31.07.2024

Heard Mr. M. Islam, learned counsel for the petitioner and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, namely, Akhirul Islam, who is apprehending arrest in connection with Mankachar P.S. Case No.99/2024 under Section 447/326/307/34 of the Indian Penal Code.

3. Case diary has been received. Perused the same. Heard both sides.

4. It is submitted by Mr. Islam, learned counsel for the petitioner that the present accused/petitioner is innocent and he is no way connected with the offence alleged. On the day of incident, he was not present at the place of occurrence. However, his name has been implicated in the FIR, as he is the son of the accused No.1 and earlier in 2/3 occasions he interfered in the matter and stood as a mediator. There is a land dispute between the parties and out of which one altercation took place on the day of incident, wherein there was a tussle between the parties in absence of the present accused/petitioner. However, the petitioner is ready and willing to cooperate the I.O. in further investigation of this case, if he is granted the privilege of pre-arrest bail.

5. Mr. B. Sarma, learned Additional Public Prosecutor, Assam, submitted in this regard that there are sufficient incriminating materials against the present accused/petitioner showing his direct involvement in the alleged offence and from the statement made by the witnesses also, it is seen that he was present at the time of incident and assaulted the victim with sharp weapon like dao, dagger, etc. More so, from the medical report, it is seen that the victim sustained grievous injury on his head and the scalp region, which is considered to be grievous in nature by the doctor who examined him. Further, Mr. Sarma submitted that as per the statement made by the victim himself, it is seen that he sustained head injury and 15 nos. of stitches had to be given to him. Initially he was taken to Goalpara CHC and subsequently, he was referred to Solace Hospita, Goalpara, where he was treated. Mr. Sarma further submitted that from the rejection order passed by the learned Trial Court below also, it is seen that the present accused/petitioner was

present and at this stage also, he is harassing and pressurizing the victim to withdraw the case. Accordingly, Mr. Sarma submitted that the present accused/petitioner is still threatening the victim and his family members with dire consequence. Mr. Sarma, accordingly, raised objection and submitting that this is not a fit case wherein the privilege of pre-arrest bail can be granted to the present accused/petitioner.

6. Considering the submission made by the learned counsel for both sides and also considering the materials available in the case diary as well as the injury report of the victim, viz-a-viz the conduct of the present accused/petitioner, as reflected in the order passed by the learned Court below, I find that this is not a fit case to extend the privilege of pre-arrest bail to the present accused/petitioner and accordingly, the anticipatory bail application stands rejected.

7. Case diary be returned.

Sd/- *Mitali Thakuria*
JUDGE

Comparing Assistant