

GAHC010130142024



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

Case No. : AB/1705/2024

RAHAM ALI @ ABDUR RAHIM AND 6 ORS.
S/O SAMAD ALI, R/O VILL- CHAKRASILA PART-1, P.S. AND DIST-
KOKRAJHAR, ASSAM

2: AZIBAR RAHMAN
S/O SEBAT ALI
R/O VILL- CHAKRASILA PART-1
P.S. AND DIST- KOKRAJHAR
ASSAM

3: UMAR ALI @ OMAR ALI
S/O SAYAD ALI
R/O VILL- CHAKRASILA PART-1
P.S. AND DIST- KOKRAJHAR
ASSAM

4: RAFIKUL ISLAM
S/O SAMAD ALI
R/O VILL- CHAKRASILA PART-1
P.S. AND DIST- KOKRAJHAR
ASSAM

5: IKRAMUL SK @ EKRABUL ISLAM
S/O SAMSUL HOQUE
R/O VILL- CHAKRASILA PART-1
P.S. AND DIST- KOKRAJHAR
ASSAM

6: MUSSTT SAMIRAN BIBI @ SAMIRAN NESSA
W/O SOMIDUL HOQUE
R/O VILL- CHAKRASILA PART-1
P.S. AND DIST- KOKRAJHAR
ASSAM

7: SAMAD ALI
S/O MOKSED ALI
R/O VILL- CHAKRASILA PART-1
P.S. AND DIST- KOKRAJHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M M ZAMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26-07-2024

Heard Mr. M.M. Zaman, learned counsel for the petitioners 1) Raham Ali @ Abdur Rahim, 2) Azibar Rahman, 3) Umar Ali @ Omar Ali, 4) Rafikul Islam, 5) Ikramul Sk @ Ekrabul Islam, 6) Musstt Samiran Bibi @ Samiran Nessa and 7) Samad 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. 95/2024 under Sections 447/427/326/307/325/34 of the Indian Penal Code, 1860.

3. Heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State. The learned Additional Public Prosecutor has raised objection stating that the victim has sustained head injuries.

4. I have also scrutinized the Case Diary. There are indeed incriminating materials in the Case Diary, more particularly against the petitioner Nos. 1) Raham Ali @ Abdur Rahim, 3) Umar Ali @ Omar Ali and 4) Rafikul Islam. At this juncture, there appears to be no justified ground to grant pre-arrest bail to the petitioner Nos. 1, 3 and 4, who are booked under a serious offence.

5. However, I have considered the submissions on behalf of the other petitioner Nos. 2) Azibar Rahman, 5) Ikramul Sk @ Ekrabul Islam, 6) Musstt Samiran Bibi @ Samiran Nessa and 7) Samad Ali. The merits of the case are not brought to the fore as investigation is still under progress. I have considered the submissions on behalf of the petitioner Nos. 2, 5, 6 and 7 that they are willing to cooperate with the remaining part of the investigation.

6. It is submitted that the petitioner Nos. 2, 5, 6 and 7 are willing to abide by any stringent bail conditions if imposed upon them. The petitioner Nos. 2, 5, 6 and 7 are local residents and they are not flight risks. It appears that custodial interrogation may not be required.

7. In view of my foregoing discussions, the petitioner Nos. 2) Azibar Rahman, 5) Ikramul Sk @ Ekrabul Islam, 6) Musstt Samiran Bibi @ Samiran Nessa and 7) Samad Ali are granted anticipatory bail. In the event of their arrest, the petitioner No. 2, 5, 6 and 7 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:

(i) The petitioner Nos. 2, 5, 6 and 7 shall appear before the Investigating Officer within one week.

(ii) The petitioner Nos. 2, 5, 6 and 7 shall refrain from such activities with which they are alleged and maintain the peace.

- (iii) The petitioner Nos. 2, 5, 6 and 7 shall not exercise threats to the witnesses.
 - (iv) The petitioner Nos. 2, 5, 6 and 7 shall not leave the jurisdiction of the Court without prior permission.
8. On breach of any of the bail conditions, bail order shall automatically stand cancelled.
9. Send back both the Case Diary of Kokrajhar Police Station Case no. 95/2024 and Kokrajhar Police Station Case No. 96/2024.
10. In terms of the above observations, this Anticipatory Bail petition stands disposed of.

JUDGE

Comparing Assistant