

GAHC010135932024



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

Case No. : AB/1752/2024

ASHADUL ISLAM AND 4 ORS.
S/O- HANIF ALI,
R/O- VILL- JHARPARA PART-I,
P.O.- LENGTISINGA,
P.S.- ABHAYAPURI,
DIST.- BONGAIGAON (ASSAM).

2: SOFIOR RAHMAN
S/O- HANIF ALI

R/O- VILL- JHARPARA PART-I

P.O.- LENGTISINGA

P.S.- ABHAYAPURI

DIST.- BONGAIGAON (ASSAM).

3: RUBUL ISLAM
S/O- HANIF ALI

R/O- VILL- JHARPARA PART-I

P.O.- LENGTISINGA

P.S.- ABHAYAPURI

DIST.- BONGAIGAON (ASSAM).

4: HANIF ALI
S/O- LATE MIJANUR RAHMAN

R/O- VILL- JHARPARA PART-I

P.O.- LENGTISINGA

P.S.- ABHAYAPURI

DIST.- BONGAIGAON (ASSAM).

5: CHAFIYA KHATUN
W/O- HANIF ALI

R/O- VILL- JHARPARA PART-I

P.O.- LENGTISINGA

P.S.- ABHAYAPURI

DIST.- BONGAIGAON (ASSAM)

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MS. R CHOUDHURY, MS. B. HAZARIKA, MR. A H M R CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 31.07.2024

Heard Ms. R. Choudhury, learned counsel for the petitioners and Mr. KK Parasar, learned Addl. Public Prosecutor, Assam, appearing on behalf of the State respondent.

C.D. received and perused.

Heard both sides.

This is an application under Section 482 of the BNSS, 2023, seeking pre-arrest bail by the petitioners namely **(1) Ashadul Islam, (2) Sofior Rahman, (3) Rubul Islam, (4)**

Hanif Ali and (5) Chafiya Khatun in connection Abhyapuri P.S. Case No. 154/2024 under Sections 120B/ 498A/ 376D/ 506 of IPC.

It is submitted by Ms. Choudhury, the learned counsel for the petitioners that vide order dated 03.07.2024, the petitioner Nos. 4 and 5, namely, **Hanif Ali** and **Chafiya Khatun** were granted the privilege of interim pre-arrest bail by this court and they have appeared before the I.O. and cooperated with the investigation. Their statement has been recorded. She further submits that the story brought in the FIR is not at all believable as two brothers cannot commit rape together with a woman. However, Ms. Choudhury submits that there was a dispute between the husband and wife and in that regard the elder brother of the victim came and take back her to her own house on the next date of the incident i.e. on 07.06.2024 and the FIR was lodged after about 6/7 days i.e. on 14.06.2024 and there was no explanation of delay in lodging the FIR. She further submits that the petitioners are ready and willing to co-operate with the investigation, if they are granted the privilege of pre-arrest bail by this Court.

Mr. Parasar, learned Addl. PP has submitted that there is no allegation against the accused/ petitioner Nos. 4 and 5, who are already on interim protection granted by this Court vide order dated 03.07.2024. Accordingly, he raised no objection against the said two petitioners i.e. petitioner Nos. 4 and 5 in making their interim protection absolute. However, he submits that there are sufficient materials against the petitioner Nos. 1, 2 and 3 and their prayer for anticipatory bail may not be considered. Hence, he raised objection against them i.e. the petitioner Nos. 1, 2 and 3.

Considering the submissions of the learned counsel for the parties and considering the matter in its entirety and the facts and circumstances of this case, this Court is of the view that interim pre-arrest bail granted to the petitioner Nos. 4 and 5 namely , **Hanif Ali** and **Chafiya Khatun** vide order dated 03.07.2024 is hereby made absolute in the same terms and conditions.

On perusal of the case diary, it is seen that there are allegation of demand of dowry amounting to Rs. 5 lakhs, against the petitioners, more specifically, the petitioner Nos. 1, 2 and 3 who used to demand the same as dowry and due to non-fulfillment of the demand of

money by the victim, she was subjected to mental and physical harassment. But from the materials available in the case diary and the statement of the witness and the circumstances as stated in the FIR, I find that custodial interrogation in respect of the petitioner Nos. 1, 2 and 3 may not be required.

Accordingly, it is provided that in the event of arrest of the petitioner Nos. 1, 2 and 3 namely **Ashadul Islam, Sofior Rahman and Rubul Islam** in connection with the aforementioned case, they shall be released on pre-arrest bail on furnishing a bond of Rs. 20,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the following conditions that:-

1. the petitioner Nos. 1, 2 and 3 shall appear before the I.O. within 10 days from today from today.
2. the petitioner Nos. 1, 2 and 3 shall make themselves available for interrogation by the Investigating Officer as and when required;
3. the petitioner Nos. 1, 2 and 3 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/ her from disclosing such facts to the Court or any other police officer, and
4. the petitioner Nos. 1, 2 and 3 shall not hamper the investigation or temper with the evidence of the case.

With the above directions, the bail application is disposed of.

Send back the case diary.

JUDGE

Comparing Assistant