

GAHC010146312024



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

Case No. : AB/1916/2024

SK. MD AMINUL ISLAM @ AMINUL ISLAM AND 2 ORS.
S/O ALA UDDIN AHMED
VILL- JHARNER CHAR PART-IV,
P.O. JORUAR CHAR
P.S. FAKIRGONJ
DIST. DHUBRI, ASSAM
PIN-783339

2: ALA UDDIN AHMED
S/O LT. REAZ UDDIN AHMED
VILL- JHARNER CHAR PART-IV

P.O. JARUAR CHAR
P.S. FAKIRGONJ
DIST. DHUBRI
ASSAM
PIN-783339

3: EKRAM ALI SK.
S/O SHER ALI SK.
P.O. PODER ALGA PART-I
P.S. FAKIRGONJ
DIST. DHUBRI
ASSAM
PIN-78333

VERSUS

THE STATE OF ASSAM AND ANR.
REP BY THE PP, ASSAM

2: MOZAHARUL ISLAM
S/O HAZI ABDUS SATTAR
VILL- PADMER ALGA PART-II

P.O. BANDIHANA
P.S. FAKIRGONJ
DIST. DHUBRI
ASSAM

PIN-78333

Advocate for the Petitioner : MR. M U MONDAL, MS. N NASRIN,MR K ISLAM,MR. A W MONDAL,J ISLAM

Advocate for the Respondent : PP, ASSAM, MS. B SARMA (LEGAL AID COUNSEL FOR R-2)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26-09-2024

Heard Mr. M.U. Mondal, learned counsel for the petitioners, **1.** Sk Md Aminul Islam @ Aminul Islam, **2.** Ala Uddin Ahmed and **3.** Ekram Ali Sk, who have filed this application under Section 482 of the Bharaitiya Nagarik Suraksha Sanhita with prayer for pre-arrest bail as they are apprehending arrest in connection with Fakirgonj Police Station Case No. 80/2024 under Sections 341/324/384/506/34 IPC R/W section 12 of the POCSO Act 2012 and 67 B IT Act, 2000.

2. Heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State and Ms. B. Sarma, learned counsel appearing for the respondent No.2.

3. Learned counsel for the respondents have raised serious objection in granting pre-arrest bail to the petitioners.

4. It is submitted that the pre-arrest bail has been preferred by the petitioners

before the learned Additional Sessions Judge, who was pleased to reject the bail application after perusal of the case diary as there are incriminating materials in the case diary against the petitioners. The petitioner Nos. 2 and 3 have also acted in an aggressive manner. The allegation against the petitioner No.1 is that he committed sexual assault on the victim and he has uploaded obscene videos. It is submitted on behalf of the petitioner No.1 that he has not uploaded the videos. The victim earlier had love relationship with one Soleman Hoque and he is the main culprit who has uploaded the video through the social network platform.

5. I have scrutinized the case diary. There are incriminating materials in the case diary against the petitioner No.1 and there are also materials in the case diary that the petitioner No.2 and 3 along with the petitioner No.1 have assaulted the victim's father. However, the pre-arrest bail may be granted to the petitioner Nos. 2 and 3.

6. I have considered the fact that the petitioner Nos. 2 and 3 are middle aged persons.

7. It is submitted by the learned counsel for the petitioners that the petitioners No.2 and 3 are willing to abide by the stringent bail conditions imposed upon them.

8. Considering all aspect, the pre-arrest bail prayer of the petitioner No.1 stands rejected.

9. In the event of the arrest of the petitioners No.2 and 3 namely Ala Uddin Ahmed and Ekram Ali Sk, they shall be enlarged on bail on furnishing a bail bond of *Rs.50,000/- each (Rupees Fifty Thousand)* with a suitable surety of like

amount to the satisfaction of the arresting authority under the conditions that:-

(i) the petitioners No.2 and 3 shall appear before the Investigating Officer within one week from today and cooperate with the investigation,

(iii) the petitioners No.2 and 3 shall not exercise threats to the witnesses or tamper with the evidence and,

(iv) the petitioners No.2 and 3 shall not leave the jurisdiction of the Court without prior permission.

10. On breach of any of the bail conditions, pre-arrest bail order shall automatically stand cancelled.

11. Send back the case diary.

12. Anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant