

GAHC010157262023



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

Case No. : AB/2509/2023

MIZANUR RAHMAN AND 2 ORS
S/O LATE MAZIBAR RAHMAN
R/OVILL- LACHONGA, P.S. KALACHIA
DIST. BARPETA, ASSAM

2: MAJEDUR RAHMAN
S/ONAYAN ALI KHAN
R/O VILL- CHAKLA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSAM

3: DALIMON NESSA
R/O VILL- CHAKLA
P.S. ABHAYAPURI
DIST. BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR N J DUTTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

23.04.2024

Heard Mr. N. Ahmed, learned counsel for the petitioners and Ms. B. Bhuayn, learned Senior Counsel & Additional Public Prosecutor for respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioners viz. [i] Mizanur Rahman; [ii] Majedur Rahman; and [iii] Dalimon Nessa have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest, in connection with Abhayapuri Police Station Case no. 318/2023 registered under Section 498A, Indian Penal Code [IPC].

3. The three petitioners are in-laws of the informant. The First Information Report [FIR] in connection with Abhayapuri Police Station Case no. 318/2023 was lodged on 21.07.2023 naming four persons as accused. The present three petitioners are named in the said FIR. The said FIR was lodged by one Halide Parbin wherein her husband, Ejas Ali Khan has been named as accused no. 1.

4. The petitioners were provided interim protection by an order dated 21.07.2023 with the further direction to them to appear before the Investigating Officer [I.O.] of the case within a period of 10 [ten] days from 21.07.2023.

5. Mr. Ahmed, learned counsel for the petitioners have submitted that pursuant to the order dated 21.07.2023, the petitioners appeared before the I.O. of the case and joined the investigation.

6. Ms. Bhuayan, learned Senior Counsel & Additional Public Prosecutor has submitted that the I.O. of the case after completion of investigation, has already submitted a charge sheet under Section 173[2], CrPC vide Charge Sheet no. 285/2023 dated 31.07.2023. Ms. Bhuayan

has submitted that telephonic instruction has been received that all the three petitioners has been charge sheeted.

7. As the petitioners were provided interim protection by order dated 21.07.2023 whereafter they joined the investigation and the charge sheet has been submitted after completion of investigation thereafter, this application preferred under Section 438, CrPC is closed providing that the benefit of pre-arrest bail under Section 438, CrPC granted in favour of the petitioners by order dated 21.07.2023 shall be in effect till their appearance before the learned jurisdictional trial court on the date fixed for their appearance in the summons, served upon them, to be issued by the learned jurisdictional trial court. It is observed that upon their such appearance before the learned jurisdictional trial court, the petitioners will be at liberty to prefer an application seeking regular bail and in the event such applications are preferred by the petitioners, the learned jurisdictional trial court will consider the same on its own merits and in accordance with law.

JUDGE

Comparing Assistant