

GAHC010171732024



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

Case No. : AB/2226/2024

ABDUR RAHMAN ALIAS ABDUL RAHMAN @ ABDUL BHUYAN AND 2 ORS
S/O LATE MONIRUDDIN @ LATE MONIR UDDIN BHUYAN,
RESIDENT OF AHMEDPUR NO. 2, PO ISLAMGAON, PS BIHPURIA, DIST
LAKHIMPUR, ASSAM 787054

2: GULZAR HUSSAIN @ GULJAR HUSSAIN
S/O ABDUL AZIZ
RESIDENT OF AHMEDPUR NO. 2
PO ISLAMGAON
PS BIHPURIA
DIST LAKHIMPUR
ASSAM 787054

3: FARUK HUSSAIN BHUYAN @ FARUK HUSSAIN
S/O MD. ABDUR RAHMAN @ ABDUL RAHMAN @ ABDUL RAHMAN
BHUYAN

RESIDENT OF AHMEDPUR NO. 2
PO ISLAMGAON
PS BIHPURIA
DIST LAKHIMPUR
ASSAM 78705

VERSUS

THE STATE OF ASSAM,
REP BY THE PP, ASSAM

Advocate for the Petitioner : MAHIBUR RAHMAN, MS ASFIA AHMED, MR AZIZUR
RAHMAN, MR. M ALOM, MS. NISHA BEGUM

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 25.09.2024

Heard Mr. M. Rahman, learned counsel for the applicants. Also heard Mr. P.S. Lahkar, learned Addl. Public Prosecutor for the State respondent.

2. This application under Section 482, BNSS, 2023, is preferred by three applicants, namely, Md. Abdur Rahman @ Abdul Rahman @ Abdul Rahman Bhuyan, Gulzar Hussain @ Guljar Hussain and Faruk Hussain Bhuyan @ Faruk Hussain, who have been apprehending arrest in connection with Laluk P.S. Case No.172/2023 under Section 146/147/325/326/307/353/506/224 IPC, read with Section 21(a)/21(b)/29 of the NDPS Act, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Chiranjib Borah of Harmoti Out Post on 06.09.2023.

4. The essence of allegation made in the aforesaid FIR is that acting on a tip off, the informant and other police staff on that day, have taken into custody one Sanjay Das from the VDP members, from whom suspected Heroin was recovered and during interrogation he disclosed that he brought the seized container with drugs from one Md. Iman Ali and thereafter, the informant proceeded to Bongalmara and apprehended Md. Iman Ali and during interrogation Iman Ali disclosed that he purchased the drugs from one Tota Miya and accordingly, the informant has proceeded to the place of Tota Miya and apprehended him and Tota Miya disclosed that he brought the same from one Saddam Hussain and accordingly, they have apprehended Saddam Hussain and

recovered some suspected drugs from his possession, while said Saddam Hussain was on his way to handover the drugs to Tota Miya, and during the time of apprehension of Saddam Hussain, he attacked police personnel and his wife Wahida Begum and his father Abu Khayer, being armed with Dao and Lathi, attacked the police personnel and injured WPC Smika Tai and when they resist the same, then 50 nos. of persons of the said locality, namely, Abdul Rahman, Abu Taleb, Nurjahan Begum, Asma Khatun, Guljar Hussain, Faruk Hussain, Umme Salma, Aftab Hussain, attacked the police personnel and Saddam Hussain managed to flee away snatching 2 nos. containers of suspected drugs from the police custody and Tota Miya also managed to escape.

5. Mr. Rahman, learned counsel for the applicants submits that this is the third anticipatory bail application preferred by the applicants on the ground that since the time of registration of the case, sufficient time has elapsed and some of the co-accused have already been granted the privilege of pre-arrest bail, and that the applicants are innocent and no way involved with the offence alleged in the FIR, and that they are ready to cooperate with the investigating agency and will appear before the I.O. as and when directed and therefore, it is contended to allow the application.

6. On the other hand, Mr. Lahkar, learned Addl. Public Prosecutor has vehemently opposed the application. By producing the case diary before this Court, he submits that there are sufficient incriminating materials against the applicants in connection with the allegations made in the FIR and that the offences are very serious in nature and investigation is still going on, and that they have assaulted the police personnel, who had gone to the place of occurrence for investigation of the case, and extending the privilege of pre-arrest bail to such offenders will send wrong signal to the society and therefore,

it is contended to dismiss the application.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the application and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Addl. Public Prosecutor.

8. The case diary indicates that the I.O. has collected sufficient incriminating materials against all the applicants and the allegation made against the applicants are serious in nature, and investigation is still going on and some of the co-accused are yet to be arrested and therefore, extending the privilege of pre-arrest bail to the applicants, at this stage, will misdirect the investigation.

9. Having considered above and also considering the nature of accusation and punishment prescribed for the same, this Court is of the view that this is not a fit case where the privilege of anticipatory bail can be granted to the applicants and accordingly, the anticipatory bail application stands dismissed.

10. Case diary be returned.

JUDGE

Comparing Assistant