

GAHC010175112024



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

Case No. : AB/2304/2024

GAFUR ALI AND 2 ORS
S/O LATE JABED ALI, R/O WARD NO. 3, HOWLY TOWN, P.S.-HOWLY, P.O.-
HOWLY, DIST- BARPETA, ASSAM, PIN-781316

2: RENUKA BEGUM
W/O GAFUR ALI
R/O WARD NO. 3
HOWLY TOWN
P.S.-HOWLY
P.O.-HOWLY
DIST- BARPETA
ASSAM
PIN-781316

3: NAZRUL HOQUE @ NAZRUL ISLAM
S/O REJAK MANDAL
R/O WARD NO. 3
HOWLY TOWN
P.S.-HOWLY
P.O.-HOWLY
DIST- BARPETA
ASSAM
PIN-78131

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B K SEN, P SINGH, N HASAN, MR A HUSSAIN

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 09.09.2024

- 1.** Heard Mr. B. K. Sen, learned counsel for the petitioners. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor, Assam appearing for the State respondent.
- 2.** This application has been preferred under Section 482 of the BNSS, 2023 by the petitioners, namely (1) Gafur Al, (2) Renuka Begum and (3) Nazrul Hoque @ Nazrul Islam, who are apprehending their arrest in connection with Howly P. S. Case No.104/2024 under Sections 137(2)/115(2)/74/123/3(5) of BNS, 2023.
- 3.** The gist of the accusation in this case is that on 21.08.2024, on Afaj Uddin Ahmed had lodged an FIR before the Officer-in-Charge of Howly Police Station against the present petitioners, *inter-alia*, alleging that the daughter of the informant was having a love affair with the son of the petitioner No.1.
- 4.** It is also stated that they have fled away from home on two occasions and in this regards the case was also filed.
- 5.** It is alleged in the FIR that the daughter of the first informant went to the house of the petitioner Nos.1 and 2 and there she was tortured by petitioner No.1 and 2 and was also administered some poison. As a result of which she became unconscious and thereafter the petitioner Nos.1 and 2 called petitioner No.3, Nazrul Islam, for help and they thereafter, took the daughter of the informant and left her near the boundary wall of the informant.
- 6.** It is also stated in the FIR that the victim was taken to the hospital at Howly and thereafter, to Barpata Government Hospital, where she was admitted for three days and was released on 21.07.2024.

7. Learned counsel for the petitioners has submitted that the allegations levelled against the petitioners are not true. He submits that it is apparent from the FIR itself that the daughter of the first informant was having love affair with the son of the petitioner Nos.1 and 2 and therefore, they have been falsely implicated by the father of the victim girl.

8. Learned counsel for the petitioners has also submitted that the petitioners are ready to cooperate in the investigation and therefore, prays for allowing the petitioners to go on anticipatory bail.

9. On the other hand, learned Additional Public Prosecutor has produced the case diary of Howly P. S. Case No.104/2024 and has submitted that there are sufficient incriminating materials against petitioner Nos. 1 and 2 of subjecting the victim to torture and also administering some powdery substance to her.

10. He also submits that the victim was hospitalized for two days, i.e. from 19.07.2024 to 20.07.2024 and now she has been recovered.

11. Learned Additional Public Prosecutor has opposed the grant of bail to the petitioner Nos.1 and 2.

12. I have considered the submissions made by the learned counsel for the petitioners as well as the learned Additional Public Prosecutor.

13. It appears from the case diary that there are incriminating materials against petitioner Nos.1 and 2. However, as the victim girl has been recovered and her statement has also been recorded under Section 183 of the BNSS, this Court is of the considered opinion that if the petitioners cooperate with the Investigating Officer, their custodial interrogation may not be necessary for fair completion of investigation of Howly P. S. Case No.104/2024. As regards petitioner No. 3 is concerned, there are no incriminating materials, which justifies custodial detention.

14. In view of above, all the three petitioners named herein before are directed to

appear the Investigating Officer of Howly P. S. Case No.104/2024 within a period of 7 days from the date of this order and cooperate with the Investigating Officer in the investigation of the case. If they do so within the stipulated period of time, in the event of their arrest, in connection with Howly P. S. Case No.104/2024, they shall be allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only), each with one surety of like amount to the satisfaction of the arresting authority subject to the following conditions:

- i. That the petitioners shall co-operate in the investigation.
- ii. That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the Investigating Officer.

- 15.** With the above observations, this anticipatory bail application stands disposed of.
- 16.** Send back the case diary.

JUDGE

Comparing Assistant