

GAHC010186072024



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

Case No. : AB/2416/2024

SAMSUL HOQUE AND 3 ORS
S/O ABDUL KARIM, R/O VILL- BOROBALARCHAR, P.O.-MORGADADHAR,
P.S.-GOLAKGANJ, DIST- DHUBRI, ASSAM, PIN-783301

2: SABINA AKTER
W/O SAMSUL HOQUE
R/O VILL- BOROBALARCHAR
P.O.-MORGADADHAR
P.S.-GOLAKGANJ
DIST- DHUBRI
ASSAM
PIN-783301

3: HAFIZA KHATUN
W/O FIRDUS RAHMAN
VILL- DHARMASALA PT-III
P.S.-DHUBRI
DIST- DHUBRI
ASSAM
PIN-783335

4: HASINA BIBI
W/O AMINUR RAHMAN
VILL- POKALAGI PT-II
P.S.-GOLAKGANJ
DIST- DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M HUSSAIN, MR. A Z AHMED

Advocate for the Respondent : PP, ASSAM,

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

ORDER

Date : 11.09.2024

- 1.** Heard Mr. A. Z. Ahmed, learned counsel for the petitioners. Also heard Mr. P. Borthakur, 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) Samsul Hoque, (2) Sabina Akter (3) Hafiza Khatun, and (4) Hasina Bibi who are apprehending their arrest in connection with Dhubri P. S. Case No.300/2024 under Sections 61(2)(a)/70(1)/351(3) of BNS, 2023.
- 3.** The gist of the accusation in this case is that the victim in this case, who is the wife of the petitioner No. 1 had lodged an FIR before the Superintendent of Police, Dhubri on 28.08.2024, *inter-alia*, alleging that she is the second wife of the petitioner No.1 and she was subjected to physical and mental torture by the petitioner No.1 and also a demand for dowry was made to her on two occasions.
- 4.** It also appears that in the FIR, the allegation of rape and attempt to rape has also been made against the other two accused persons who are not before this Court in this bail application.
- 5.** Mr. A. Z. Ahmed, learned counsel for the petitioners has submitted that the allegations in the FIR filed by the wife of the present petitioner is mainly against Aminur Rahman and Fidus Bepari and the other allegations against the petitioner and his family members are not true and he is ready to cooperate with the Investigating

Officer.

6. On the other hand, learned Additional Public Prosecutor has produced the case diary of Dhubri P. S. Case No.300/2024 and has submitted that the main thrust of allegation in the FIR as well as statement of the victim recorded under Section 164 of the Code of Criminal Procedure, 1973 is against other co-accused namely, Aminur Rahman and Fidus Bepari.

7. However, general allegation of subjecting the informant to torture and demanding dowry has been made against the present petitioners.

8. I have considered the submissions made by the learned counsel for both the sides and perused the materials available on record including the case diary of Dhubri P. S. Case No.300/2024

9. It appears from the materials on record that the victim has alleged attempt to rape and commission of rape against two of the co-accused, namely, Aminur Rahman and Fidus Bepari and the allegations against the present petitioners are to the effect that she was subjected to harassment both mental and physical.

10. Considering the nature of allegations levelled against the present petitioners, 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 in Dhubri P. S. Case No.300/2024.

11. In view of above, all the above named petitioners are hereby directed to appear before the Investigating Officer of Dhubri P. S. Case No.300/2024 within a period of time, in the event of their arrest in connection with the aforementioned case, 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.

12. With the above observations, this anticipatory bail application stands disposed of.

JUDGE

Comparing Assistant