

GAHC010228112024



2024:GAU-AS:11325

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

Case No. : AB/2885/2024

JUBBAR ALI AND 3 ORS.
W/O AMZAD ALI, VILL- DHANBARI CHAPLAI PT-II, P.S.-DHUPDHARA,
DIST- GOALPARA, ASSAM

2: AMZAD ALI
S/O LATE DARBESH ALI
VILL- DHANBARI CHAPLAI PT-II
P.S.-DHUPDHARA
DIST- GOALPARA
ASSAM

3: DULUMUDDIN
S/O AMZAD ALI
VILL- DHANBARI CHAPLAI PT-II
P.S.-DHUPDHARA
DIST- GOALPARA
ASSAM

4: HAZRAT ALI
S/O AMZAD ALI
VILL- DHANBARI CHAPLAI PT-II
P.S.-DHUPDHARA
DIST- GOALPARA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY, MR. M ISLAM

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

20.11.2024

Heard Mr. N Uddin, learned counsel for the petitioners and Mr. K K Parashar, learned Additional Public Prosecutor, Assam for the State.

2) By this application filed under Section 482 BNSS, 2023, the petitioners, namely, **(i) Jubbar Ali**, son of Amzad Ali; **(ii) Amzad Ali**, son of Late Darbesh Ali; **(iii) Dulumuddin**, son of Amzad Ali and **(iv) Hazrat Ali**, son of Amzad Ali, all residents of Dhanbari Chaplai Pt-II, Police Station-Dhupdhara, District-Goalpara, apprehending their arrest is seeking their pre-arrest bail in **Dhupdhara Police Station Case No. 61/2024** registered under Section 137(2)/3(5) BNS, 2023, corresponding to G.R. Case No. 929/2024.

3) As per the FIR dated 28.09.2024 lodged by the informant/complainant before the Officer-in-Charge of Dhupdhara Police Station, the case is that the accused petitioners on 24.09.2024 at around 9 A.M kidnapped her minor daughter of 17 years, while she was on her way to Padupara Higher Secondary School at village Borbari and confined her in some unknown place.

4) In the said FIR, the complainant/informant also stated that the accused petitioner No.1 earlier on three occasions induced her minor daughter and took her away, but she was somehow recovered and the petitioner No.1 assured before the Dhupdhara Police Station that he will not keep any relation with the daughter of the informant/complainant. But inspite of that, the petitioner No.1 induced her minor daughter and kidnapped her.

5) Accordingly, Dhupdhara P.S. Case No. 61/2024 under Section 137(2)/3(5) BNS, 2023, corresponding to G.R. Case No. 929/2024 was registered.

6) The Court by order dated 05.10.2024, while calling for the relevant case diary, granted interim pre-arrest bail to the petitioner Nos.2,3 and 4 with certain conditions.

Accordingly, they appeared before the concerned Investigating Officer of said Dhupdhara P.S. Case No.61/2024 and their statements have been recorded.

7) Perused the case diary placed before the Court today by Mr. K K Parashar, learned APP, Assam.

8) It is seen from the case diary that the statement of the victim girl was recorded by the learned Sub Divisional Judicial Magistrate, Goalpara on 08.11.2024 and from her statement, it is seen that the victim girl had love affair with the petitioner No.1 for the last 3 years, but her family members had arranged her marriage with someone else.

9) As such on 24.09.2024, she eloped with the petitioner on her own will and resided in the house of a relative aunt of the petitioner No.1 at Barpeta.

10) She also stated before the learned Magistrate that on completion of her 18 years, both she and the petitioner No.1 performed Nikah and also entered into Court Marriage and that since then, she and petitioner No.1 are living together as husband and wife. She reiterated that the petitioner No.1 did not kidnap her and that he is aged about 22 years.

11) From the case diary, it is seen that the date of birth of the petitioner is 01.01.2006, as per the Birth Certificate dated 05.05.2015 which was issued by the Registrar of Births and Deaths, Rangjuli, Goalpara having Registration No.938/2015. As such, on the date of the occurrence, i.e., on 24.09.2024, the petitioner was 8 days less to attain 18 years.

12) Considering the materials in the Case Diary, the interim pre-arrest bail granted to the petitioner Nos. **(2) Amzad Ali (3) Dulumuddin** and **(4) Hazrat Ali**, on 04.11.2024, in the said Dhupdhara P.S. Case No.61/2024 is hereby made absolute, subject to the compliance of the terms and conditions as specified in said order dated 04.11.2024, passed earlier in the present proceeding.

13) Further, it is provided that in the event of arrest of the petitioner No.1, namely, **Jubbar Ali**, in said Dhupdhara P.S. Case No. 61/2024, he shall be released on bail on furnishing bail bond of Rs. 40,000/- with two local sureties of the like amount, one of which shall be a Government Employee, either Central or State Government, to the satisfaction of the arresting authority on conditions that the petitioner No.1 – **(i)** shall appear before the Investigating Officer of Dhupdhara P.S. Case No. 61/2024 on or before **27.11.2024** during the office hours and thereafter, as and when he is required, for

necessary investigation of said Dhupdhara P.S. Case No. 61/2024; **(ii)** shall not leave the territorial jurisdiction of the Dhupdhara police station, without obtaining prior written permission from the concerned Investigating Officer of the case; **(iii)** shall not hamper with the investigation, or tamper with the evidence of the case; **(iv)** shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer and **(v)** shall not involve himself in any criminal activities in the future.

14) Any violation of the aforesaid terms and conditions by the petitioners, named above, as well as the terms and conditions as specified in the order dated 04.11.2024, the pre-arrest bail granted to them in the aforementioned Dhupdhara P.S. Case No. 61/2024 shall stand automatically vacated.

15) With the above observations and directions, the prayer for pre arrest bail of the petitioners, named above, stands allowed to the extent above.

16) Return the Case Diary herewith.

JUDGE

Comparing Assistant