

GAHC010231002023



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

Case No. : AB/3482/2023

MD. MOTIBUR RAHMAN AND 4 ORS
S/O JAHER ALI
PERMANENT RESIDENT OF OF VILL- SARU RADHAATI UNDER DHING
POLICE STATION, IN THE DISTRICT OF NAGAON, ASSAM

2: MD. MOHAMMAD ALI
S/O AJOM ALI
PERMANENT RESIDENT OF OF VILL- SARU RADHAATI UNDER DHING
POLICE STATION
IN THE DISTRICT OF NAGAON
ASSAM

3: MD. AHAMMAD ALI
S/O AJOM ALI
PERMANENT RESIDENT OF OF VILL- SARU RADHAATI UNDER DHING
POLICE STATION
IN THE DISTRICT OF NAGAON
ASSAM

4: MD. ABDUL FARUK
S/O MD. ABDUL GAFUR
PERMANENT RESIDENT OF OF VILL- SARU RADHAATI UNDER DHING
POLICE STATION
IN THE DISTRICT OF NAGAON
ASSAM

5: MD. MD. ABDUL REJAK
S/O LATE SOMED ALI
PERMANENT RESIDENT OF OF VILL- SARU RADHAATI UNDER DHING
POLICE STATION
IN THE DISTRICT OF NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B M CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

01.02.2024

This is an application under Section 438 of Cr.PC, 1973 for grant of pre-arrest bail to the petitioners, namely Md. Motibur Rahman, Md. Mohammad Ali, Md. Ahammad Ali, Md. Abdul Faruk and Md. Abdul Rejak, who are apprehending arrest in connection with P.R. Case No. 1254/2022 under Section 143/323/352/302 of Indian Penal Code arising out of Dhing P.S. Case No. 52/2020 pending in the Court of the Sub-Divisional Judicial Magistrate, Nagaon.

The case of the prosecution is that since two years, the accused persons were using the informant's Motor Pump and have refused to pay the hiring charges. Accordingly, on 09.02.2020, when the accused persons had come to the paddy field, the informant refrain them from using the Motor Pump. Later on, around 9:00 P.M when the informant was returning home after closing his shop, the accused Nos. 1, 2 & 4 stopped him and threatened him. Next day, at round 9:30 P.M, the accused No. 11 interrupted him and got him down from his motor cycle and after the informant left, the accused persons along with the other accused came with dao, lathi etc. and by seeing the father of the

informant standing in front of the house assaulted him. The younger brother of the informant was also assaulted. The informant's father, who was assaulted grievously in the forehead ultimately succumbed to the injury and died. Accordingly, a case was registered and after completion of investigation, Charge-sheet was submitted on 30.11.2020.

Mr. B.M. Choudhury, learned counsel for the petitioners submits that the petitioners are willing to surrender themselves and appear before the trial.

Mr. K.K. Parashar, learned Addl. P.P strongly opposes the prayer for bail and submits that the accused petitioners have been absconding since the date of occurrence and as such, is not entitled for grant of pre-arrest bail.

I have considered the submissions made at the bar and have perused the materials available on record.

The allegations are of grave and serious nature. Considering the fact that the accused persons have been absconding since the date of occurrence, i.e., 09.02.2020, this Court is not inclined to grant anticipatory bail to the petitioners.

Accordingly, the application stands rejected.

JUDGE

Comparing Assistant