

GAHC010234012023



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

Case No. : AB/3543/2023

JAHIRUL ISLAM AND 4 ORS
S/O ABDUS SALAM
R/O BHUIYABARI
P.S. LAHARIGHAT
DIST. MORIGAON, ASSAM

2: ABDUL RASID
S/O ISMAIL HUSSAIN
R/O DUBANGKHAITY
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM

3: BABUL ALI @ SUNTA
S/O ARAZ ALI
R/O CHATIAANTOLI
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM

4: FAIZUR HOQUE
S/O ARAZ ALI
R/O CHATIAANTOLI
P.S. LAHARIGHAT
DIST. MORIGAON
ASSAM

5: MUKLES ALI
S/O ARAZ ALI
R/O CHATIAANTOLI
P.S. LAHARIGHAT

DIST. MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 13.02.2024

Heard Mr. S. H. Sikdar, learned counsel for the petitioners. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent and Mr. B. Islam, learned counsel appearing on behalf of the victim/informant.

This is an application under Section 438 of the Code of Criminal Procedure, 1973 praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending arrest in connection with Laharighat P.S. Case No. 226/2023, under Sections 120(B)/376/341/354/325/324/506 of the Indian Penal Code.

It is submitted by Mr. Sikdar, learned counsel for the petitioners, that the present accused/petitioners are the family members of the main accused- Amirul Islam and they have been falsely implicated here in this case only for the reason that they are the family members of the accused- Amirul Islam. They have not committed any such offence as alleged in the F.I.R. though their names have been reflected as accused in the present case. All the accused/petitioners have appeared before the I.O. after obtaining the interim pre-arrest bail on 13.10.2023 and their statements were recorded by the I.O. under Section 161 Cr.P.C. They are still ready and willing to co-operate with the I.O. in the further investigation of the case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. Das, learned Additional Public Prosecutor, has submitted that the main accused of the entire case is stated to be one Amirul Islam, however the present accused/petitioners are also shown as accused in the F.I.R. with the allegation of assault to the present victim/informant. Accordingly, considering the materials available in the Case Diary, it is submitted that their pre-arrest bail prayer may be considered.

Mr. B. Islam, learned counsel for the victim/informant, has submitted that the present accused/petitioners are also involved in the alleged offence and they also took active part in assaulting and driving out the victim from the house of the co-accused, Amirul Islam, and accordingly he raised objection in granting pre-arrest bail to the present accused/petitioners.

Considering the submissions made by the learned counsels for the parties and also considering the materials available in the Case Diary and the conduct of the accused/petitioners, I find that custodial interrogation of the present accused/petitioners is not necessary in this case and therefore, I find it a fit case to extend the privilege of pre-arrest bail to the accused/petitioners.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, (i) Jahirul Islam, (ii) Abdul Rasid, (iii) Babul Ali @ Sunta, (iv) Faizur Hoque & Mukles Ali, in connection with Laharighat P.S. Case No. 226/2023, under Sections 120(B)/376/341/354/325/324/506 of the Indian Penal Code, they shall be enlarged on pre-arrest bail on their executing a bond of Rs. 20,000/- (Rupees twenty 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 fully co-operate with the investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case; and

- (ii) that the petitioners 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 him from disclosing such facts to the Court or to any police officer.

The anticipatory bail application stands disposed of in terms above.

The Case Diary be sent back.

JUDGE

Comparing Assistant