

GAHC010259612023



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

Case No. : AB/3898/2023

MOINUL HOQUE AND 2 ORS
S/O AYUB ALI R/O JORGORH BHOJKHOWA CHAPARI KALIABHOMORA
TEZPUR SONITPUR ASSAM

2: SUHRAB ALI @ SURHAB ALI
S/O AYUB ALI R/O JORGORH BHOJKHOWA CHAPARI KALIABHOMORA
TEZPUR SONITPUR ASSAM

3: ABUDL KAYUM
S/O ISMIL SHEIKH R/O JORGORH BHOJKHOWA CHAPRI KALIABHOMORA
TEZPUR SONITPUR ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

05.01.2024

Heard Mr. D. Bora, learned counsel for the applicants and also heard Mr. B. Sarma,

learned Additional Public Prosecutor, Assam, appearing for the State respondent and Mr. H.K. Das, learned counsel appearing for the informant.

2. This application, under Section 438 Cr.P.C. is preferred by three applicants, namely, Md. Mainul Hoque, Suhrab Ali @ Surhab Ali and Md. Abdul Kayum, who have been apprehending arrest in connection with Tezpur P.S. Case No.313/2023, under Section 326/307/34 IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above-mentioned case has been registered on the basis of one FIR lodged by one Mariom Begum on 26.03.2023. The essence of allegation made in the aforesaid FIR is that on 24.03.2023 at about 9:30 p.m., Mainul Hoque, Habibur Rahman and Surhab Ali had assaulted her son with sharp object and caused grievous injuries on his person.

4. Mr. Bora, learned counsel for the applicants submits that this Court, vide order dated 18.11.2023, was pleased to extend interim protection to applicant No.3, namely, Md. Abdul Kayum and pursuant to the said order, he had appeared before the I.O. and he has been cooperating with the investigating agency and therefore, it is contended to make the interim order dated 18.11.2023, so far it relates to applicant No.3 is concerned, absolute in the same terms and conditions. Mr. Bora, further submits that the other two applicants are also innocent and they are no way involved with the offence alleged in the FIR and they are ready to cooperate with the investigating agency and therefore, it is contended to allow their prayer also.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary, though the same was called for from the Officer-in-Charge, concerned P.S. But, as per his instruction, the I.O. has completed the investigation and laid charge-sheet, being Charge-Sheet No.877/2023, under Section 341/326/34 IPC, dated 31.10.2023.

6. In view of the submission of learned Advocates of both sides, this Court is inclined to dispose of this anticipatory bail application by directing the applicants to appear before

the learned Court below on or before 22.01.2024 and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law. Till then, interim order dated 18.11.2023 in respect of applicant No.3, namely, Md. Abdul Kayum, stands extended.

Sd/- Robin Phukan
JUDGE

Comparing Assistant