

GAHC010272312023



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

Case No. : AB/4078/2023

ABDUL MANNAF ALI @ ABDUL MONNAF AND 4 ORS
S/O LATE RUPCHAND ALI
R/O VILL- MOWAMARI PT. I
P.O. PAGLAHAT, P.S. KAZIGAON,
DIST. KOKRAJHAR, ASSAM

2: EKRAMUL HOQUE
S/O SHAH ALOM SHEIKH
R/O VILL- MOWAMARI PT. I
P.O. PAGLAHAT
P.S. KAZIGAON

DIST. KOKRAJHAR
ASSAM

3: ENDADUL HOQUE
S/O SHAH ALOM SHEIKH
R/O VILL- MOWAMARI PT. I
P.O. PAGLAHAT
P.S. KAZIGAON

DIST. KOKRAJHAR
ASSAM

4: ASHARAFUL ALI @ ASHARFUL HOQUE
S/O SHAH ALOM SHEIKH
R/O VILL- MOWAMARI PT. I
P.O. PAGLAHAT
P.S. KAZIGAON

DIST. KOKRAJHAR
ASSAM

5: RAHUL ALI @ RAHUL SHEIKH

S/O SHAH ALOM SHEIKH
R/O VILL- MOWAMARI PT. I
P.O. PAGLAHAT
P.S. KAZIGAON

DIST. KOKRAJHAR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M Z SHAH

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

02.02.2024

Heard Mr. R. Ali, learned counsel appearing for the petitioners. Also heard Mr. K.K. Parasar, learned Addl. P.P., Assam appearing for the State respondent.

2. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to the petitioners, namely **Abdul Mannaf Ali @ Abdul Monnaf, Ekramul Hoque, Endadul Hoque, Asharaful Ali @ Asharful Hoque and Rahul Ali @ Rahul Sheikh**, in connection with **Tamarhat P.S. Case No. 119/2023**, registered under Sections **120(B) / 294/323/325/307/34** of the Indian Penal Code, 1860.

3. The allegations made in the FIR dated 12.09.2023 is that the accused/petitioner no. 1 had a quarrel with the informant's uncle and subsequently, the other accused petitioners also came and attacked him and when the informant's younger brother tried to resist the accused persons, the accused/petitioner no. 2, Ekramul Hoque assaulted the informant's brother on his head for which, he fell down and became senseless.

4. It is submitted on behalf of the petitioner that the petitioner no. 1 and the uncle of the informant are own brothers and they have a dispute over some landed property. It is further submitted on behalf of the petitioner that upon a quarrel over the landed dispute, the altercation took place between the parties that the informant's brother and uncle got hurt.

5. Mr. K.K. Parasar, learned Addl. P.P. on the other hand strongly opposes the prayer for grant of pre-arrest bail to the petitioners. He further submits from the materials available on record that the victim has stated in his statement recorded under Section 161 Cr.P.C that the petitioner no. 2, i.e. Ekramul Hoque has assaulted him with an iron rod for which he sustained grievous injuries in his head and became senseless. He further submits that the injury report indicates that the informant's brother has sustained grievous injuries in his head and the uncle of the informant has sustained simple injury.

6. I have heard the submissions made at the Bar and perused the materials available on record.

7. It appears from the materials available on record that the accused/petitioner no. 2 i.e. Ekramul Hoque has grievously assaulted the informant's brother and considering, the manner in which he has been assaulted, this Court is not inclined to grant anticipatory bail to the said

petitioner/accused no. 2 Ekramul Hoque. Accordingly, the prayer of the accused/petitioner no. 2 stands rejected. However, as regards, the other co-accused/petitioners from the materials available on record, it appears that they have not inflicted grievous injury to the informant's brother.

8. Considering the facts and circumstances of the case, it is provided that in the event of their arrest, the petitioner no. 1,3,4 and 5 named above shall be released on bail on furnishing of bail bond of Rs. 30,000/- each with one surety of like amount each to the satisfaction of the arresting authority, subject to the following conditions-

- (i) That the petitioners shall co-operate in investigation as and when required; 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, and
- (iii) That the petitioners shall refrain from such activities with which they are alleged.

9. Return the case diary.

10. This disposes of anticipatory bail application.

JUDGE

Comparing Assistant