

GAHC010279312023



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

Case No. : AB/4204/2023

BADAL SINGH AND ANR
S/O SONINDAR SINGH
R/O MORAHALI PUNJABI COLONY
P.O. ULUBARI, P.S. PALTAN BAZAR, GUWAHATI-781007
DIST. KAMRUP (M), ASSAM
PHONE NO. 98642219964

2: SRI SAGAR SINGH
S/O SONINDAR SINGH
R/O MORAHALI PUNJABI COLONY
P.O. ULUBARI
P.S. PALTAN BAZAR
GUWAHATI-781007
DIST. KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M AGARWALLA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 09.02.2024

Heard Mr. M. Agarwalla, learned counsel for the petitioners and Mr. KK Parasar, learned Addl. Public Prosecutor for the State respondent.

This is an application under Section 438 Cr.P.C., filed by the petitioners, namely (1) Sri Badal Singh and (2) Sri Sagar Singh, praying for pre-arrest bail who are apprehending arrest in connection with Paltan Bazar P.S. Case No. 467/2023 registered under Sections 325/326/354/307/34 IPC.

The case diary is received and perused.

Heard both sides.

It is submitted by the learned counsel for the petitioners that the petitioners have not committed any offence as alleged in the FIR. The real fact of the case is that there was an altercation and scuffle between the accused and the informant at the time of emersion of goddess Durga in the river Brahmaputra and in the said altercation and scuffle, the informant has assaulted the father of the present accused petitioner and that there was a further altercation and scuffle took place between the parties and one Karan Singh had sustained minor injuries. That apart, there was no such incident has occurred between them as alleged in the FIR. The learned counsel for the petitioners has submitted that the petitioners are ready and willing to cooperate with the investigation, if they are granted the privilege of pre-arrest bail.

In this context, Mr. KK Parasar, learned Addl. PP has submitted that from the materials available in the case diary, it reveals that there was an altercation and scuffle took place between the two groups, following which some persons had sustained minor injury. There was serious allegation against the petitioner No. 2, who also assaulted the father of the informant, who had to be hospitalized for three days. Therefore, he raised objection in granting pre-arrest bail to the accused/ petitioner No. 2. More so, the accused petitioners have threatened the informant after obtaining the interim pre-arrest bail granted by the learned Sessions Judge, Kamrup (Metro), Guwahati. Accordingly, the learned Addl. PP has raised objection in granting pre-arrest bail to the accused petitioner No. 2. However, he raised no objection in granting pre-arrest bail to the accused/petitioner No.1.

I have considered the submissions of the learned counsel for the parties and other

aspects of the case. On perusal of the record and it is seen that the incident had happened during emersion of goddess Durga in Brahmaputra River as a result of which, the victim sustained injury following the scuffle and altercation that took place between the two groups. However, it is seen that after obtaining interim pre-arrest bail, granted by the learned Sessions Judge, Kamrup (M), Guwahati the accused petitioners have appeared before the I.O and their statements were recorded under Section 161 Cr.P.C.. Under such circumstances, this Court is of the view that benefit of pre-arrest bail may be given to the petitioners, subject to the conditions that if any condition is violated, the I.O. will be at liberty to file application for cancellation of the pre-arrest bail.

Accordingly, it is directed that in the event of arrest of the petitioners in connection with the aforesaid case, petitioners be released on pre-arrest bail on furnishing a bond of Rs. 20,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the following conditions that:-

1. the petitioners shall appear before the I.O. within 7 days from today.
2. the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
3. 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 any other police officer, and
4. the petitioners shall not hamper the investigation or temper with the evidence of the case.

The bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant