

GAHC010281512023



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

Case No. : AB/4209/2023

ASHAB ALI @ SK AND 4 ORS
S/O AINUDDIN SK.
VILL- JHALER ALGA PT.II, P.S. GAURIPUR
DIST. DHUBRI, ASSAM

2: AINUDDIN SK.
S/O LT. MONTAJ SK.
VILL- JHALER ALGA PT.II
P.S. GAURIPUR
DIST. DHUBRI
ASSAM

3: SUKKUR ALI @ SUKUR ALI SK.
S/O AINUDDIN SK.
VILL- JHALER ALGA PT.II
P.S. GAURIPUR
DIST. DHUBRI
ASSAM

4: AJUPA KHATUN BIBI @ AZUFA BIBI
W/O AINUDDIN SK.
VILL- JHALER ALGA PT.II
P.S. GAURIPUR
DIST. DHUBRI
ASSAM

5: JOBEDA KHATUN @ BIBI
W/O AINUDDIN SK.
VILL- JHALER ALGA PT.II
P.S. GAURIPUR, DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM

REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M MONDAL

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 03-01-2024

Heard Mr. M.Mandal, learned counsel for the applicant and also heard Mr. B. B.Gogoi, learned Addl. P.P. for the State respondent.

Apprehending arrest, in connection with Gauripur P.S. Case No. 374/2023, under Sections 323/325/326/34 of IPC, this application under Section 438 Cr.P.C. is preferred by five applicants namely, 1.Ashab Ali @ Sk, 2. Ainuddin Sk, 3. Sukkur Ali @ Sukur Ali Sk, 4. Ajupa Khatun Bibi @ Azufa Bibi and 5. Jobeda Khatun @ Bibi , for grant of pre-arrest bail.

It is to be noted that the above noted case has been registered on the basis of an FIR lodge by one Sundari Bibi on 30.09.2023.

The essence of allegation made in the FIR dated 30.09.2023 is that on 29.09.2023 at about 5 P.M., the husband of the informant, namely, Rafiq Ali Mondal who has been working as a Contractor in Sona Brick kiln, situated at Mazirgaon Guwahati, went to the house of Ashab Ali Sk, who took a sum of Rs. 85,000/- for working in the brick kiln, and while they asked the accused to return the amount, then altercation took place between them and the accused Ashab Ali Sk, alongwith other co-accused, assaulted her and her husband and also injured them seriously.

The learned counsel for the applicants submits that except altercation, nothing

has taken place between the applicant and the informant and her husband, as alleged in the FIR, and they are innocent and ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

On the other hand, Mr. B. B. Gogoi, learned Addl. P.P. has produced the case diary before this Court and submits that as per injury report of the victim, the injury sustained by him is simple in nature caused by blunt object.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the case diary.

It appears that the case was registered u/s 323/325/326/34 IPC. As indicated in the injury report of the victim, Rafiq Ali Mondal, the injury sustained by him is simple in nature caused by blunt object and as such, no ingredient of the offence u/s 326 IPC appears to be made out and rest of the offences are bailable.

And in view of the above, this Court is inclined to dispose of this application by directing the applicants to appear before the learned Court below and to apply for regular bail and in the event of such an application, the learned court below shall consider the same , in accordance with law.

In terms of above this bail application stands disposed of.

Case diary be returned.

JUDGE

Comparing Assistant