

GAHC010288712023



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

Case No. : AB/4283/2023

MOINUL HOQUE AND ANR
S/O BABLU SK. @ BABUL SK.
R/O VILL- BERBHANGI PT.2,
P.O. DIMAKURI
P.S. GOLAKGANJ
DSIT. DHUBRI, ASSAM

2: AINUL HOQUE
S/O BABLU SK. @ BABUL SK.
R/O VILL- BERBHANGI PT.2

P.O. DIMAKURI
P.S. GOLAKGANJ
DSIT. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE LEARNED PP, ASSAM

2:SAJINA KHATUN
D/O - LT ASAN ALI
R/O - VILL - BERBHANGI PART II
GOLAKGANJ
DIST - DHUBRI
PIN - 78333

Advocate for the Petitioner : MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

05.01.2024

Heard Mr. S Das, learned counsel for the petitioners. Also heard Mr. RR Kaushik, learned Additional Public Prosecutor, Assam for the State respondents.

This is an application under Section 438 Cr.P.C. for granting the privilege of pre-arrest bail to the petitioners, namely, 1. Moinul Hoque and 2. Ainul Hoque who are apprehending arrest in connection with PRC Case No. 2804/2022 arising out of Golakganj P.S.Case No.845/2020 under Sections 376(D)/506 IPC.

Case diary is received.

It is submitted by the learned counsel for the petitioners that the informant lodged an FIR against her husband alleging domestic violence and torture. Subsequently in the FIR, the informant has also alleged that the present petitioners who are her brother-in-law had committed rape on her. Apart from that she had further alleged that her father-in-law also committed rape on her which are all false allegations made against the petitioners and the father-in-law, in view of the fact that since 2020 the informant is living peacefully with her husband along with the other family members including her father-in-law in her matrimonial house. Therefore, the petitioners may be granted the privilege of pre-arrest bail.

It is submitted by the learned Additional Public Prosecutor that charge sheet had already been submitted in this case.

However, Mr. IU Choudhury, learned counsel who appears on behalf of the respondent No.2 informant/victim has produced an additional affidavit wherein it is stated that just after lodging of the FIR, she had returned back to her matrimonial house and living a peaceful conjugal life with her husband and the other family

members since November, 2020 and the victim has no objection if the petitioners are granted the privilege of pre-arrest bail.

Considering the above, this Court is inclined to grant the privilege of pre-arrest bail to the petitioners.

Accordingly, in the event of arrest of the petitioners above-named, in connection with the case aforementioned, they shall be released on bail on furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) each with a suitable surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Dhubri, subject to the following conditions:

1. The petitioners shall not leave the territorial jurisdiction of the learned Chief Judicial Magistrate, Dhubri, without prior written permission,
2. 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.

This application, accordingly, stands disposed of.

JUDGE

Comparing Assistant