

GAHC010290682023



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

Case No. : AB/4310/2023

ABDUL HASIM AND 4 ORS
S/O- LATE ABDUL JABBAR, R/O- VILL.- TELIACHAPARI TUP, P.S.
RUPAHIHAT, DIST. NAGAON, ASSAM, PIN- 782125.

2: NUR JAMAL
S/O- ABDUL HASIM
R/O- VILL.- TELIACHAPARI TUP
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782125.

3: JAIDUL ISLAM
S/O- ABDUL HASIM
R/O- VILL.- TELIACHAPARI TUP
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782125.

4: MAIDUL ISLAM
S/O- ABDUL HASIM
R/O- VILL.- TELIACHAPARI TUP
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN- 782125.

5: ASHAD
S/O- ABDUL HASIM
R/O- VILL.- TELIACHAPARI TUP
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM

PIN- 782125

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE P.P., ASSAM

2:NUR MAHAMMAD
S/O- ABDUL HASIM
R/O- VILL.- TELIACHAPARI TUP
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM, PIN- 782125

Advocate for the Petitioner : MR. S RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

09.04.2024

Heard Mr. A.N. Iqbal, learned counsel for the applicants and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Rupahihat P.S. Case No.414/2023, under Section 376/212/506/34 IPC, read with Section 4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, this application under Section 438 Cr.P.C. is preferred by five applicants, namely, Abdul Hasim, Nur Jamal, Jaidul Islam, Maidul Islam and Ashad, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Nur Mohammad, on 04.10.2023. The essence of allegation made in the aforesaid FIR is that on 25.08.2023, at about 4:00 p.m. in the afternoon, accused Abdul Malek called the daughter of the informant Smt. X (name withheld), aged 17 years and while his daughter was sweeping in the house of the accused, then he

committed rape upon her. Thereafter, the victim had reported the matter to him and then he had reported the matter to the family members of Abdul Malek, namely, Abdul Hasim, Nur Jamal, Jaidul Islam, Maidul Islam and Ashad and they have threatened him and also harassed him not to lodge any case against Abdul Malek.

4. Mr. Iqbal, learned counsel for the applicants submits that the applicants were granted the privilege of interim pre-arrest bail by this Court vide order dated 22.12.2023, and pursuant to the said order, except applicant No.2, Nur Islam, the other applicants had appeared before the I.O. and due to some family problem, the applicant No.2, could not appear before the I.O. and that the rest of the applicants have been cooperating with the investigating agency and therefore, a contention is being made to make the interim order dated 22.12.2023, absolute, in the same terms and conditions.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, submits that he has not received the case diary, but he has received the instruction from the I.O. concerned that investigation of the case has already culminated in submission of charge-sheet, being Charge-Sheet No.432/2023, dated 30.12.2023, under Section 376/212/506/34 IPC, read with Section 4 of the POCSO Act, against all the applicants.

6. In view of the submission of learned Advocates of both sides and also considering the fact that the investigation has already been completed and charge-sheet has been submitted against the present applicants, this Court is inclined to dispose of this application by directing the applicants to appear before the learned Court below on or before 25.04.2024, 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 22.12.2023, stands extended.

7. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant