

GAHC010292772023



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

Case No. : AB/4355/2023

SAMSUL HOQUE AND ANR
S/O- MAHAMAD AINUDDIN,
R/O- VILLAGE DAKHINGAON, NEAR BURHA MASJID,
P.O- KAHILIPARA,
P.S- DISPUR, DIST- KAMRUP (M), ASAM, PIN-782104

2: SHAHANUR ISLAM
S/O- MAHAMAD AINUDDIN
R/O- VILLAGE DAKHINGAON
NEAR BURHA MASJID
P.O- KAHILIPARA
P.S- DISPUR
DIST- KAMRUP (M)
ASAM
PIN-78210

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K H KHANDAKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 22-04-2024

Heard Mr. K M Hassan, learned counsel for the petitioners. Also
heard Mr. D Das, learned Addl. PP, appearing for the State respondent.

By this application under Section 438 Cr.P.C., the petitioners, namely, (1) Samsul Hoque and (2) Shahanur Islam are seeking pre-arrest bail in connection with PRC Case No. 318/2021 pending before the learned Additional Chief Judicial Magistrate, Barpeta arising out of Kalgachia P.S. Case No. 456/2020 registered under Sections 147/148/149/325/326 IPC added Sections 365/307 of IPC.

In fact, the petitioners earlier approached this Court with a similar prayer by filing a criminal petition which was registered as CrI.Pet.No./1344/2023 with a prayer to recall the Warrant of Arrest issued against the petitioners.

This Court after hearing the parties, directed the learned committal Court to consider the case of the petitioners for bail and passed an order. In the aforesaid order, this Court has specifically observed that the Committal Court is competent enough to consider the prayer of the bail. However, this present application is filed with a backdrop that as the offences are registered and charged under Section 307 of IPC, the Committal Court has refused to entertain such application and asked the petitioners to take an adjournment. Such statement had been made at paragraph 12 of the petition.

This court under its order dated 22.12.2023 while granting interim protection called for the scanned copies of the case record.

The same is produced and perused.

From the materials available on record, it is seen that the petitioners have made out a case for grant of interim protection till their appearance before the learned trial court below after committal of the case.

Accordingly, the interim order passed earlier on 22.12.2023 is made absolute till the petitioners appear before the learned trial court

below on receipt of the summon.

On appearance before the learned trial court, the petitioners shall file an application for regular bail which shall be considered by the learned trial court below as per law.

JUDGE

Comparing Assistant