GAHC010154032020

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

Case No. : AB/3076/2020

HABIBAR RAHMAN @ MD. HABIBOR RAHMAN MONDAL AND 4 ORS.
S/O SRI JEL HOQUE MONDAL, R/O VILL-PADMABIL, P.S.-GOSSAIGAON,
DIST-KOKRAJHAR, BTC, ASSAM

2: POLOWAN SHEIKH @ MD. POLOWAN ALI
S/O KASEM ALI
R/O VILL-PADMABIL
P.S.-GOSSAIGAON
DIST-KOKRAJHAR
BTC
ASSAM

3: KASEM ALI @ KASHEM ALI SHEIKH
S/O LATE JOYNAL ABEDIN
R/O VILL-PADMABIL
P.S.-GOSSAIGAON
DIST-KOKRAJHAR
BTC
ASSAM

4: SMTI TOHIRAN BIBI
W/O KASEM ALI @ KASHEM ALI SHEIKH
R/O VILL-PADMABIL
P.S.-GOSSAIGAON
DIST-KOKRAJHAR
BTC
ASSAM

5: HASEN ALI
S/O KASEM ALI @ KASHEM ALI SHEIKH
R/O VILL-PADMABIL
P.S.-GOSSAIGAON
DIST-KOKRAJHAR
BTC

ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE HITESH KUMAR SARMA

ORDER

09.12.2020:

Heard Mr. A. A. R. Khan, learned counsel for the petitioners. Also heard Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

This is an application, filed under Section 438 of the Cr.PC. seeking pre-arrest bail of the accused-petitioners, namely, (1) ***Sri Habibar Rahman @ Habibor Rahman, (2) Sri Polowan Sheikh @ Md. Polowan Ali, (3) Sri Kasem Ali @ Kashem Ali Sheikh, (4) Smti. Tohiran Bibi and (5) Sri Hasen Ali,*** in connection with ***Gossaigaon PS Case No. 388/2020*** registered under Sections 120(B)/294/376/468/506/34 of the IPC.

Case diary produced has been perused, particularly the statement of the victim recorded under Section 164 Cr.P.C. The victim has clearly implicated the petitioner No.1- ***Sri Habibar Rahman @ Habibor Rahman*** with the commission of the offence of rape on her.

Such being the materials in the case diary, the prayer for pre-arrest bail of the petitioner No.1- ***Sri Habibar Rahman @ Habibor Rahman*** is rejected.

So far as the petitioner Nos.2 and 5 are concerned, there is no such

material against them in the case dairy requiring their custodial interrogation. Therefore, they are granted the privilege of pre-arrest bail.

The petitioner Nos.3 and 4 are already on interim protection. Therefore, the interim protection granted to them vide order dated 28.10.2020 is made absolute by this order on the same terms and conditions.

The petitioner Nos.2 and 5 are granted pre-arrest bail in view of the absence of sufficient materials against them and also finding that their custodial interrogation is not essential. Therefore, the petitioner Nos.2 and 5 will appear before the Investigating Police Officer within a period of 7 (seven) days from today, and, in the event of their arrest, they shall be released on furnishing a bail bond of Rs. 20,000/- each with one suitable surety each of the like amount to the satisfaction of the arresting authority, on the following conditions:-

1. The petitioners shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer-in-charge,

2. The petitioners shall not hamper with the investigation, or tamper with the evidence of the case, and

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 to any police officer.

This petition stands disposed of accordingly.

Return the case diary.

JUDGE

Comparing Assistant