

GAHC010053942024



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

Case No. : AB/696/2024

FARUK HUSSAIN BHUYAN @ FARUK HUSSAIN AND 2 ORS.
S/O ABDUR RAHMAN BHUYAN, VILL- NO. 2 AHMEDPUR, P.O.-
ISLAMGAON, P.S.-BIHPURIA, DIST-LAKHIMPUR, ASSAM, PIN-787054

2: ABDUR RAHMAN @ ABDUL RAHMAN
S/O MANIRUDDIN
VILL- NO. 2 AHMEDPUR
P.O.-ISLAMGAON
P.S.-BIHPURIA
DIST-LAKHIMPUR
ASSAM
PIN-787054

3: GULZAR HUSSAIN
S/O ABDUL AZIZ
VILL- NO. 2 AHMEDPUR
P.O.-ISLAMGAON
P.S.-BIHPURIA
DIST-LAKHIMPUR
ASSAM
PIN-78705

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

03.04.2024

Heard Mr. A.M. Ahmed, learned counsel for the applicants and also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Laluk P.S. Case No.172/2023, under Section 146/147/325/326/307/353/506/224 IPC, read with Section 21(a)/21(b)/29 of the NDPS Act, this application under Section 438 Cr.P.C. is preferred by three applicants, namely, Faruk Hussain Bhuyan @ Faruk Hussain, Abdur Rahman @ Abdul Rahman and Gulzar Hussain, 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 Chiranjib Borah of Harmoti Out Post on 06.09.2023. The essence of allegation made in the aforesaid FIR is that acting on a tip off, the informant and other police staff on that day, have taken into custody one Sanjay Das from the VDP members, from whom suspected Heroin was recovered and during interrogation he disclosed that he brought the seized container with drugs from one Md. Iman Ali and thereafter, the informant proceeded to Bongalmara and apprehended Md. Iman Ali and during interrogation Iman Ali disclosed that he purchased the drugs from one Tota Miya and accordingly, the informant has proceeded to the place of Tota Miya and apprehended him and Tota Miya disclosed that he brought the same from one Saddam Hussain and accordingly, they have apprehended Saddam Hussain and recovered some suspected drugs from his possession, while said Saddam Hussain was on his way to handover the drugs to Tota Miya, and during the time of apprehension of Saddam Hussain, he attacked police personnel and his wife Wahida Begum and his father Abu Khayer, being armed with

Dao and Lathi, attacked the police personnel and injured WPC Smika Tai and when they resist the same, then 50 nos. of persons of the said locality, namely, Abdul Rahman, Abu Taleb, Nurjahan Begum, Asma Khatun, Guljar Hussain, Faruk Hussain, Umme Salma, Aftab Hussain, attacked the police personnel and Saddam Hussain managed to flee away snatching 2 nos. containers of suspected drugs from the police custody and Tota Miya also managed to escape.

4. Mr. Ahmed, learned counsel for the applicants submits that the applicants are innocent and they are no way involved with the offence alleged in the FIR and that some of the co-accused have already been granted pre-arrest bail by this Court in AB No.186/2024 vide order dated 26.02.2024 and in AB No.26/2024 vide order dated 22.01.2024 and that the present applicants are also stand in the same footing and they are also ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. B. Sarma, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected sufficient incriminating materials against the present three applicants and their names also find mention in the FIR dated 06.09.2023 and as such, Mr. Sarma, learned Additional P.P. has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Sarma, learned Additional P.P.

7. The case diary indicates that the I.O. has collected sufficient incriminating materials against the present applicants. Investigation is going on and extending the privilege of pre-arrest bail to the present applicants at this stage will misdirect the investigation. Accordingly, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be granted to the applicants and accordingly, the anticipatory bail

application stands dismissed.

8. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant