

GAHC010025862024



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

Case No. : AB/315/2024

ALI HUSSAIN AND ANR
S/O SURHABUDDIN R/O BHELOGURI P.O BHELOGURI, P.S - DOBOKA
DISTRICT- NAGAON (ASSAM) PIN - 782125

2: AFJALUR RAHMAN
S/O HAIDOR ALI R/O RUPOHI TOWN P.O AND P.S- RUPOHIHAT DISTRICT-
NAGAON (ASSAM) PIN - 78212

VERSUS

THE STATE OF ASSAM
(REPRESENTED BY THE LEARNED PP GOVT. OF ASSAM)

Advocate for the Petitioner : SABRISH AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

29.02.2024

Heard Ms. A. Hussain, 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 Rupohihat P.S. Case No.464/2023, under Section 120B/420/406/342/387/506 IPC, this application under Section 438 Cr.P.C. is preferred by two applicants, namely, Ali Hussain and Afjalur Rahman, 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 Pramod Pagey, Badaruddin Sheikh and Ranjit Borah on 21.11.2023. The essence of allegation made in the aforesaid FIR is that on 20.11.2023, at about 11:00 p.m., one Ali Hussain called them to take some Dumpers and thereafter, they were taken to a house in a Swift Dzire vehicle and thereafter, 12 unknown miscreants came there and projected them as drug dealers and handed over drugs in their hand and tied their mouth with clothes and with Da, stick, sword, pistol, etc. and forcefully taken away 3 nos. of gold ring from the informant No.1 and through UPI transaction took a sum of Rs.95,000/- and Rs.50,000/- from the informant No.2 and another sum of Rs.40,000/- through ATM and also took a sum of Rs.5,000/- from the informant No.3 and also took a cash amount of Rs.5,000/- from the informant No.2 and snatched away their mobile phones and thereafter, threatened them not to lodge any complaint before the police.

4. Ms. Hussain, learned counsel for the applicants submits that though the name of applicant No.1 is reflected in the FIR, yet, he is no way involved with the offence alleged in the FIR and the name of the applicant No.2 finds no mention in the FIR and he is also no way involved with the offence alleged in the FIR and the present FIR is the counterblast of the complaint lodged by Md. Ali Hussain against the informants of the present case and that the informants have taken the JCB of Ali Hussain on rental basis, but they have neither paid the amount nor returned the JCB and that they are 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, submits that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR and that their custodial interrogation is necessary and the money snatched away from the informants were recovered from the possession of the co-accused persons and therefore, Mr. Sarma contended to dismiss 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 in support of the allegation made in the FIR. It appears that the present applicants are the main culprits of the offence and in order to unearth the conspiracy and other co-accused involved in the same, their custodial interrogation is indispensable and therefore, 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