

GAHC010000362024



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

Case No. : AB/30/2024

MUZAKKIR AHMED AND ANR
S/O ABDUL SALAM
VILL- RANGALU BASTI
P.S. KACHUA, DIST. NAGAON,
ASSAM, PIN-782426

2: MUSTAFA KAMAL
S/O ABDUL SALAM
VILL- KATIMARI GRANT
P.S. HAIBORGAON
DIST. NAGAON
ASSAM
PIN-78200

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

12.01.2024

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. A. Hussain,

learned counsel for the applicants and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application, under section 438 Cr.P.C. is preferred by two applicants, namely, Muzakkir Ahmed and Mustafa Kamal, who have been apprehending arrest in connection with Kachua P.S. Case No.149/2023, under Section 120(B)/420 of the IPC, for grant of pre-arrest bail.

3. It is to be noted here that the above noted case has been registered on the basis of an FIR lodged by one Abdul Hasim on 08.12.2023. The essence of allegation made in the aforesaid FIR is that on 12.10.2023 he met with an accident, wherein he dashed one Samu Debnath of Alitengani village with his Alto vehicle, bearing Registration No.AS-05R-8820. As a result of which, said Samu Debnath suffered demise and in connection with the said accident one case has been registered and thereafter, to settle the same, one Muzakkir Ahmed and Mustafa Kamal has taken a sum of ₹ 2,50,000/- from him, so as to bribe the Superintendent of Police, Nagaon and the Officer-in-Charge of concerned police station and thereafter, they failed to settle the case and thereby cheated him.

4. Mr. Choudhury, learned Senior counsel for the applicants, submits that the applicant No.1 is a delivery boy of Indane Gas and he has nothing to do with the case and applicant No.2 is a Principal of a reputed educational institution and that they are no way involved with the offence alleged in the FIR and their custodial interrogation may not be required in the interest of investigation and therefore, Mr. Choudhury contended to allow this petition.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, has vehemently opposed the petition on the ground that the I.O. has collected sufficient incriminating materials in support of the allegation made in the FIR.

6. Having heard the submission of learned Advocates for 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. Lahkar, learned Additional P.P.

7. In view of the materials collected so far in the case diary and also in view of the nature of accusation and the punishment prescribed for the same, this Court is left unconvinced by the submission of Mr. Choudhury, learned Senior counsel for the applicants that custodial interrogation of the applicants are not required in the interest of investigation, in fact, their custodial interrogation is indispensable in the interest of investigation 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 petition stands dismissed.

8. Case diary be returned.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant