

GAHC010010532024



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

**Case No. : AB/186/2024**

ASMA KHATUN  
W/O MOSTUFA ABUL BASHAR  
VILL- NO. 2 AHMEDPUR  
P.O. ISLAMGAON,  
P.S. BIHPURIA  
DIST. LAKHIMPUR, ASSAM  
PIN-787054

VERSUS

THE STATE OF ASSAM  
REP. BY THE PP, ASSAM

**Advocate for the Petitioner : MR. A M AHMED**

**Advocate for the Respondent : PP, ASSAM**

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

**ORDER**

**26.02.2024**

Heard Mr. A.M. Ahmed, learned counsel for the applicant and also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 438 Cr.P.C. is preferred by the applicant, namely, Asma Khatun, who has been 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, 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 applicant submits that the applicant is a lady and no way involved with the offence alleged in the FIR and she is the aunt of Saddam Hussain and she is ready to cooperate with the investigating agency and that some of the

co-accused have already been enlarged on pre-arrest bail and therefore, Mr. Ahmed contended to allow the petition.

5. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the injuries sustained by the victim are simple in nature caused by blunt object. However, Mr. Baruah pointed out that some of the injured persons also sustained some of the injuries over their scalp and the I.O. has examined some witnesses in this case and therefore, Mr. Baruah 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. Baruah, learned Additional P.P.

7. The case diary indicates that the I.O. has collected some materials in support of the allegation made in the FIR. However, case diary also indicates that the I.O. has achieved substantial progress in the investigation of this case. Further, it appears that the injuries sustained by the injured are simple in nature caused by blunt object and it also appears that some of the co-accused have already been granted the privilege of pre-arrest bail by this Court vide order dated 22.01.2024, in AB No.26/2024 and vide order dated 09.11.2023, in AB No.3430/2023.

8. Having considered above and also considering the nature and gravity of the offence, this Court is inclined to allow this petition. It is provided that in the event of arrest of the applicant, namely, Asma Khatun, 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, she shall be enlarged on pre-arrest bail on her executing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicant shall make herself available for interrogation by the Investigating Officer as and when required;
  - (ii) The applicant 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; and
  - (iii) The applicant shall not leave the jurisdiction of the learned C.J.M., North Lakhimpur, without prior permission.
9. In terms of above, this anticipatory bail application stands disposed of.
10. Case diary be returned.

*Sd/- Robin Phukan*  
**JUDGE**

**Comparing Assistant**