

Misc (Bail) Case no. 177/2020

**05.11.2020**

The bail petition no. 732/2020 is filed u/s 438 CrPC by the petitioners, Md. Akkas Ali, Md. Yaar Ali and Musstt. Sukia Khatun in connection with Biswanath Chariali PS Case No. 261/2020 u/s 457/323/354/354-D/34 IPC apprehending arrest in the instant case.

Heard learned counsel for both the sides.

The learned counsel for the petitioner submitted that the petitioners are innocent but they apprehend arrest by police in this case.

The case diary as called for is received.

The informant in her 'ejahar' dated 30.10.2020 stated that on the previous day at about 10.30 pm, the accused petitioners Yaar Ali and Sufia Khatun criminally trespassed into her house in absence of her husband and physically assaulted her. Thereafter the other accused came and threatened commit rape on her. The other two accused then pulled out her garments. They threatened to kill her and left the place. Later at about 11pm, when her husband returned and enquired of the incident from the accused from his house, the accused petitioners came chasing and assaulted her husband with fists, blows and kicks. The accused Yaar Ali brought a sharp weapon from his house to kill them but they managed to save themselves by entering back into their house.

The medical injury report of the husband of the informant shows that no visible mark of injury was seen on his person. Tenderness present, which is a simple injury caused by blunt weapon. Likewise, the medical report of the informant too shows that there was no visible mark of injury found on her body.

Considering the materials so far collected against the accused petitioners as revealed by the case diary and the allegations leveled against them, I find that custodial interrogation of the accused persons is not warranted. This is a fit case wherein the benefit of pre-arrest bail can be extended to the accused petitioners. Hence, the petition is allowed.

Accordingly, the O/C of Biswanath Chariali P.S. is directed to release the petitioners in the event of their arrest in connection with the instant case, after obtaining bail bonds of Rs.10,000/- each with one surety of the like amount on the conditions that- (1) the petitioners shall surrender before the O.C. of the concerned P.S. within two days, (2) the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required, (3) they shall not hamper the investigation or tamper with the evidence of the case, (4) they 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/her from disclosing such facts to the Court or to the Investigating Officer.

Inform the O/C of the concerned P.S.

Send back the case diary.

The Misc. Case is disposed of, accordingly.