

Present : Alhaj S. Mazumdar
i/c Sessions Judge
Morigaon

Bail Application No. 208/2020

22.05.2020

P.O. is on roster duty leave. Regular court work is paralyzed due to Corona Virus Pandemic.

This is a bail petition filed u/s 438 of Cr.PC praying for granting pre-arrest bail of accused persons namely (1) Ashim Baruah, (2) Srimanta Baruah, (3) Dipumoni Baruah and (4) Akan Baruah who are apprehending arrest in connection with Morigaon P.S. Case No.274/2020 u/s 379/294/341/307/325/506/34 IPC.

Case diary has arrived. Perused the same.

Heard learned advocate for the accused and Learned P.P.

The FIR lodged by informant Biplab Baruah discloses that on 9.05.2020 at 10.30 a.m. the informant caught accused Ashim Baruah red handed when he was inside the house premises of the informant with intent to commit theft and then accused Ashim Baruah, Srimanta Baruah, Dipumoni Baruah and Akan Baruah scolded him by using obscene words and dragged him to their house and accused Akan Baruah intending to kill him pressed his neck and the other accused persons assaulted him and caused him grievous injuries.

During hearing learned counsel for the accused persons submitted that the petitioners are innocent and are not involved with the alleged offence. He further submitted that on 9.05.2020 the informant Biplab Baruah hit the accused Ashim Baruah by means of Bamboo as a result of which Ashim Baruah fainted and when the other accused tried to save Ashim Baruah the informant hit the other accused persons by means of bamboo and as such one FIR was lodged by the accused persons which has been

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registered as Morigaon P.S. Case No. 277/2020 u/s 447/341/ 325/ 34 IPC against Biplab Baruah and others.

Case diary reveals that no offence of theft have been committed by the accused persons. No injury report is before me. Statement u/s 161 Cr.PC of the informant and the other witnesses disclose that the accused persons assaulted the informant physically. The informant-cum-victim has not stated about any injury sustained by him. He simply stated that the accused Akan Baruah attempted to kill him but there is nothing in his statement in respect of any aggravated act to show that the accused persons attempted to kill him. Mere statement that the accused attempted to kill him does not attract the offence u/s 307 IPC.

In view of the above I find it a fit case to allow the accused persons the benefit of pre-arrest bail and as such the instant bail prayer is allowed. The arresting authority is directed that in the event of arrest accused namely Ashim Boruah, Srimanta Boruah, Dipumoni Boruah and Akan Boruah shall be released on furnishing bail bond of Rs. 10,000/-(Rupees ten thousand) each with one surety of like amount to the satisfaction of the investigating.

Accordingly the bail application stands disposed of.

Return the case diary to concerned I.O. along with a copy of this order.

Let a copy of the order be given to the petitioner/learned engaged counsel of the petitioner free of cost under the signature of Bench Assistant/Head Assistant for their record.

Send a copy of this order to learned Chief Judicial Magistrate, Morigaon.

i/c, Sessions Judge
Morigaon, Assam

