

GAHC010021162023



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

Case No. : Bail Appln./406/2023

AMIR HAMJA AND 8 ORS.
S/O ABDUL SALAM MONDAL,
VILL.- MAKRAM BILL,
P.S.- GOSAIGAON,
DIST.- KOKRAJHAR, ASSAM.

2: MUNNAF ALI
S/O ABDUL KUDDUS ALI
VILL.- MAKRAM BILL
P.S.- GOSAIGAON
DIST.- KOKRAJHAR
ASSAM.

3: NURUL ISLAM
S/O LT. RIYASUDDIN
VILL.- MAKRAM BILL
P.S.- GOSAIGAON
DIST.- KOKRAJHAR
ASSAM.

4: MUKBUL HUSSAIN
S/O ABDUL BATEN
VILL.- MAKRAM BILL
P.S.- GOSAIGAON
DIST.- KOKRAJHAR
ASSAM.

5: AJAHAR ALI
S/O ABDUL SALAM MONDAL
VILL.- MAKRAM BILL
P.S.- GOSAIGAON
DIST.- KOKRAJHAR
ASSAM.

6: JAMIRUL HUSSAIN
S/O MOKBUL ALI
VILL.- MAKRAM BILL
P.S.- GOSAIGAON
DIST.- KOKRAJHAR
ASSAM.

7: MANIK ALI
S/O USUB ALI
VILL.- BILASHIPARA
P.S.- BILASHIPARA
DIST.- DHUBRI
ASSAM.

8: NIJAMUDDIN
S/O ISMAIL HUSSAIN
VILL.- BILASHIPARA
P.S.- BILASHIPARA
DIST.- DHUBRI
ASSAM.

9: MAJIBUR ALI
S/O LT. ABDUL KADER ALI
VILL.- 1 NO. TASPUR
BHUMKA
P.S.- GOSAIGAON
DIST.- KOKRAJHAR
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./492/2023

ABDUL RAKHIB ALI @ ABDUL RAKHIP HOQUE AND ANR
S/O- JAHIRUL HOQUE
VILL.- YAMUNATARI
P.O. KARTIMARI
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTR, ASSAM

2: ABDUL REJAK @ ABDUL REZZAK
S/O- BELLAL SHEIKH @ BILLAL ALI
VILL.- TENGNARBHITA
P.O. TULSIBILL
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTR
ASSAM
VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE P.P.
ASSAM

Advocate for : MR. M ALI
Advocate for : PP ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 15-02-2023

Heard Mr. B. Chowdhury, learned counsel for the accused-petitioners in B.A. no. 406/2023 and Mr. M. Ali, learned counsel for the accused-petitioners in B.A. no. 492/2023. Also heard Mr. K.K. Parasar, learned Additional Public Prosecutor for the respondent State of Assam.

2. By the two applications under Section 439, Code of Criminal Procedure, 1973, the accused-petitioners viz. [1] Amir Hamja, [2] Munna Ali, [3] Nurul Islam, [4] Mukbul Hussain, [5] Ajahar Ali, [6] Jamirul Hussain, [7] Manik Ali, [8] Nijamuddin and [9] Majibur Ali in B.A. no. 406/2023 and the accused-petitioners viz. [1] Abdul Rakhib Ali @ Abdul Rakhip Hoque and [2] Abdul Rejak @ Abdul Rezzak in B.A. 492/2023 have prayed for their release on bail in connection with Fatasil Ambari Police Station Case no. 247/2022 [corresponding G.R. Case no. 9240/2022], registered for offences under Sections 302/34, Indian Penal Code [IPC].

3. Today, Mr. Parasar, learned Additional Public Prosecutor has submitted, on instruction, that the Investigating Officer [I.O.] after completion of investigation of the case in connection

with Fatasil Ambari Police Station Case no. 247/2022 has already submitted a charge-sheet under Section 173[2], CrPC vide Charge-Sheet no. 09[A]/2023 dated 10.02.2023. Mr. Parasar has further submitted, on the basis of telephonic instructions, that all the afore-mentioned accused-petitioners have been charge-sheeted.

4. In view of submission of the charge-sheet in Fatasil Ambari Police Station Case no. 247/2022, Mr. Chowdhury and Mr. Ali, learned counsel for the petitioners have submitted that the petitioners will approach the learned jurisdictional magistrate and/or jurisdictional trial court seeking regular bail.

5. In view of the above submission of Mr. Chowdhury and Mr. Ali, the two applications stand closed, granting liberty to the petitioners to approach the learned jurisdictional magistrate and/or the jurisdictional trial court.

6. At this stage, Mr. Chowdhury and Mr. Ali, learned counsel for the accused-petitioners in the two applications have submitted that the matter of submission of a charge-sheet within the period prescribed under Section 167[2], CrPC is relatable to the date on which the same is placed before the jurisdictional magistrate. The accused-petitioners are at liberty to agitate the issue before the learned jurisdictional magistrate and/or the jurisdictional trial court.

7. In the event the petitioners approach the jurisdictional Magistrate and/or the trial court by filing any application seeking regular bail, the jurisdictional Magistrate and/or the jurisdictional trial court will consider such application on its own merits and in accordance with law.

JUDGE

Comparing Assistant