

GAHC010045032023



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

Case No. : AB/741/2023

ABU SIDDIK SEKH @ ABU SIDDIK AND 8 ORS
S/O ABDUL AZIZ
R/O VILL- KALBARI,
P.O. AND P.S.SORBHOG,
DIST. BARPETA, ASSAM

2: SHISHIR ALI
S/O LATE AFAZUDDIN @ AWAZ UDDIN
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSAM

3: ATAR ALI @ TIGER
S/O SHISHIR ALI
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSAM

4: SAHIDUR ALI
S/O ABDUL SALAM
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSAM

5: ABDAR ALI @ ATOWAR ALI (PITKA)

S/O SHISHIR ALI
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSAM

6: SAKIYET ALI @ SOKET ALI
S/O LATE KORKOJ ALI
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSAM

7: ABUL HUSSAIN
S/O SHISHIR ALI
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSAM

8: SAFIUR RAHMAN
S/O LATE A FAZ UDDIN @ AWAZ UDDIN
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSAM

9: ABBAS ALI
S/O KURBAN ALI
R/O VILL- KALBARI

P.O. AND P.S.SORBHOG

DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

27.04.2023

Heard Mr. M. Ahmed, learned counsel for the petitioners. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam.

2. This Anticipatory Bail petition has been filed by the petitioners, namely, 1) Abu Siddik Sekh @ Abu Siddik, 2) Shishir Ali, 3) Atar Ali @ Tiger, 4) Sahidur Ali, 5) Abdar Ali @ Atowar Ali (Pitka) 6) Sakiyet Ali @ Soket Ali, 7) Abul Hussain, 8) Safiur Rahman & 9) Abbas Ali, who are apprehending their arrest in connection with Sorbhog Police Station Case No.31/2023 corresponding to G.R. Case No.305/2023 registered under Sections 120(B)/147/341/326/302/435 of the IPC.

3. An FIR dated 15.02.2023 was lodged by the informant one Sariful Ali, whereby it was alleged that on 14.02.2023 at about 8 AM that his cousin, namely, Babul Ali while proceeding to home with bricks loaded on a tractor

through the Tamulbari road, he was accosted by one Abdul Aziz who prevented him from passing of a culvert. When Babul Ali informed his family members that he has been prevented by Abdul Aziz, some of his family members came to the spot and thereafter a fight ensued between 2 (two) groups involving Babul Ali and his companions and Abdul Aziz and his companions. It was alleged that the family members of the informant's were attacked with sharp and dangerous weapons by the said Abdul Aziz and his family members and in the process the father and elder brother of the informant were killed.

4. The FIR was received and registered as Sorbhog P.S. Case No.31/2023 registered under Section 120(B)/147/341/326/302/435 of the IPC and the investigations were initiated.

5. The learned counsel for the petitioners submits that there was a scuffle between 2 (two) groups of people belonging to the family members of the informant and family members of the petitioners. It is further submitted that the family members of the petitioners had also received severe and grievous injuries at the hands of the family members of the informant during the clash and accordingly, they had also filed an FIR which was registered as Sorbhog P.S. Case No.32/2023.

6. It is submitted that the petitioners are not at all involved in the scuffle

leading to the death of the father and the elder brother of the informant.

7. The learned counsel for the petitioners submits that they all along have cooperated with the investigation of the case.

8. Learned Additional P.P. Submits that the case diary called for has been received along with the injury report. It is submitted by the learned Addl. P.P. that the matter is still under investigation and as it involves a scuffle between 2 (two) groups of people resulting in fatalities and police is proceeding with the investigation and at this stage, release of the petitioners on bail will hamper the further investigation of the case.

9. Leaned counsel for the parties have been heard.

The case diary which is produced before this Court has been carefully perused.

10 From the case diary received that there are serious allegations made in the FIR. That apart, this clash resulted in the death of some people as well as some other people suffered grievous injuries. There are several witnesses who are being examined and several more are left to be examined as is evident from the case diary. The investigating officer is continuing with the investigation and the charge-sheet has not yet been filed.

11. Considering the gravity of the offences alleged as well as severity of the

punishment prescribed, if convicted and considering that the matter is still under investigation and that the charge-sheet is yet to be filed, this Court is of the opinion that release of the petitioners at this stage may hamper the progress of the investigation being carried on. The persons alleged to be involved in the offences including the petitioners are known to the informant and his family members and all of them reside within the same area. Taking into account all these factors, this Court is of the view that the prayer for bail at this stage of the investigation will have to be rejected.

12. The prayer bail is rejected. The bail petition is, accordingly, dismissed.

13. Return the case diary.

JUDGE

Comparing Assistant