GAHC010048212023

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

Case No. : Bail Appln./783/2023

ALI HUSSAIN AND ANR
S/O SISIR ALI
R/O VILL- KALBARI
P.S. SORBHOG
DIST. BARPETA, ASSAM

2: ABDUL MOMIN ALI @ ABDUL MOMIN
S/O SHOKIYAT ALI @ SAKIYET ALI
R/O VILL- KALBARI
P.S. SORBHOG
DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K RAHMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

11-04-2023

Heard Mr. K. Rahman, learned counsel for the petitioners. Also heard Mr. R.R.

Kaushik, learned Additional Public Prosecutor, Assam.

This bail application has been filed by the petitioners, namely, 1) Ali Hussain & 2) Abdul Momin Ali @ Abdul under Section 439 Cr.P.C. with a common prayer for bail as they were arrested on 16.02.2023 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.

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.

The FIR was received and registered as Sorbhog P.S. Case No.31/2023 corresponding to G.R. Case No.305/2023 registered under Section 120(B)/147/341/326/302/435 of the IPC and the investigations were initiated.

The learned counsel for the petitioner 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 severed 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.31/2023.

It is submitted that the petitioner no.1 is a daily wage labourer and the petitioner no.2 is a student and they are not at all involved in the scuffle leading to the death of the father and the elder brother of the informant.

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

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.

Leaned counsel for the parties have been heard.

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

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.

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 I/o is yet to file the charge-sheet, this Court is of the opinion that release of the petitioners at this stage may hamper the progress of

the investigation. 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 residing 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.

The prayer bail is, accordingly, rejected.

The bail petition is, accordingly, dismissed.

Return the case diary.

JUDGE

Comparing Assistant