

GAHC010056632023



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

Case No. : AB/959/2023

RIAJ UDDIN AND 6 ORS
S/O LATE MOIN UDDIN
R/O VILL- USHNABAZ
P.O. ANGLARBAZAR, P.S. BADARPUR
DIST. KARIMGANJ, ASSAM

2: SAHAB UDDIN
S/O LATE MOIN UDDIN
R/O VILL- USHNABAZ
P.O. ANGLARBAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

3: JAMAL UDDIN
S/O LATE MOIN UDDIN
R/O VILL- USHNABAZ
P.O. ANGLARBAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

4: SIRAJ UDDIN
S/O LATE MOIN UDDIN
R/O VILL- USHNABAZ
P.O. ANGLARBAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

5: TAJ UDDIN
S/O LATE MOIN UDDIN
R/O VILL- USHNABAZ
P.O. ANGLARBAZAR

P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

6: RUHEL AHMED
S/O SIRAJ UDDIN
R/O VILL- USHNABAZ
P.O. ANGLARBAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

7: GULZAR AHMED
S/O SIRAJ UDDIN
R/O VILL- USHNABAZ
P.O. ANGLARBAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

(PETITIONER NO. 7 IS A MINOR AS SUCH HE IS REP. BY HIS FATHER SIRAJ
UDDIN

PETITIONER NO. 4)

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 29-03-2023

1. Heard Mr. N Hoque, learned counsel for the petitioners. Also heard Mr. RR Kaushik, learned Addl. PP, appearing for the State respondent and Mr. HR Khan, learned counsel for the informant.

2. The petitioners, namely, **1. Riaj Uddin, 2. Sahab Uddin, 3. Jamal**

Uddin, 4. Siraj Uddin, 5. Taj Uddin and 6. Ruhel Ahmed, have filed an application under section 438 Cr.P.C., for grant of pre arrest bail in connection with **Badarpur PS Case No.01/2023** (GR Case No.13/2023) under sections **147/148/149/447 /326/307 IPC**.

3. I have considered the submissions at the bar and have also perused the case diary.

4. The FIR unfolds that on 31.12.2022 at about 6.30 pm when the informant went towards his land, the petitioners who were armed with dangerous weapons like dao, dagger and lathi, attacked the petitioner causing grievous injuries on his body.

5. The learned counsel for the petitioners has submitted that a false case has been slammed against the petitioners. The injured persons sustained simple injuries and he was discharged on the next day of the incident.

6. The learned Addl. PP has raised objections stating that the statements of the witnesses under section 161 Cr.P.C., directly incriminates the petitioners **1. Riaj Uddin, 2. Sahab Uddin, 3. Jamal Uddin, 4. Siraj Uddin**. The injury report clearly depicts that the informant Azir Uddin sustained:

“Sutured wound of size 6 cm over right parietal region

Tenderness present over shoulder

Tenderness present over right thumb

CT head shows contusion in right parietal and real temporal region, subarachnoid hemorrhage on parietal region and right temporal region with undisplaced fracture of (BL) parietal bone.

Fracture proximal fehlynx of right thumb

CT report shows grievous injuries

Despite repeated counseling patient party refuses investigation and further management, and was discharged against medical advise”.

7. A scrutiny of the case diary reveals that there are indeed cogent materials against all the petitioners. However, no overt act is attributed to the petitioner Nos.5 and 6

8. I have considered the gravity of the offence under which the petitioners are booked. I have considered the injuries sustained by the victim.

9. In view of my foregoing discussions, the prayer of the petitioners **1. Riaj Uddin, 2. Sahab Uddin, 3. Jamal Uddin, 4. Siraj Uddin**, for pre arrest bail is rejected at this stage of investigation.

10. In the event of arrest of petitioners **5. Taj Uddin and 6. Ruhel Ahmed**, the petitioners shall be enlarged on bail of Rs.30,000/- each with a suitable surety of the like amount to the satisfaction of the arresting authority subject to the conditions that:

- i. That the petitioners will appear before the IO within 10 days and cooperate with the investigation;
- ii. The petitioners will refrain from such activities with which they are alleged.

11. Send back the case diary.

JUDGE

Comparing Assistant