

GAHC010064142023



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

Case No. : AB/1071/2023

MOFIDUL HOQUE @ MD MAFI AND 16 ORS
S/O SAHABUDDIN SK
R/O VILL- NO. 1 BHODEYAGURI
P.O. BHADEYAGURI,
P.S. GOSSAIGAON,
DIST. KOKRAJHAR, BTAD,
ASSAM, PIN-783360

2: QAMRUZZAMA @ MD KAMRUZ ZAMAN
S/O MD. SHAFI
VILL- NO. 1 BHODEYAGURI
(REP. BY HIS MOTHER NAMELY
SOLMA
AGED ABOUT 43
W/O MD SHAFI

VILL- NO. 1 BHODEYAGURI
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

3: MAKBUL HUSSAIN @ MD. MOKBUL ALI
S/OLT. RAHIJUDDIN SK
VILL- NO. JOYMA
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

4: ROBBUL HOSEN @ MD. ROKBUL ALI
S/OLT. RAHIJUDDIN SK.
VILL- NO. 1 BHODEYAGURI
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

5: MAJAFFOR SHEK
@ MD. MUZZAFAR SK.
S/O SAHABUDDIN SK
VILL- NO. 1 BHODEYAGURI
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

6: MAFIJUL SK. @ MD. TOGRU ALI
S/O SAHIBAR SK.
NO. 2 JOYMA
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

7: MRINAL HUSSAIN @ MD. MINAL SK.
S/O MD. LT. AHMED ALI

VILL- NO. 1 BHODEYAGURI
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

8: SERAJUL ALI @ MD. SIRAJUL SK.
S/O LT. AHMED ALI
VILL- NO. 1
BHODEYAGURI
(TO BE REP. BY HIS MOTHER
NAMELY MEHENA BIBI

AGED ABOUT 48

W/OLT. AHMED ALI
VILL- NO. 1 BHODEYAGURI)
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

9: SAIFUL ISLAM @ MD. SAIFUL SK.
S/O JAMIRUDDIN SK.
VILL- NO. 2 JOYMA
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

10: ABDUL KAIUM SK. @ MD. MOON SK.
S/O SOMSER ALI
VILL- NO. 2 JOYMA

P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

11: MIJANUR HUSSAIN @ MD. MIZANUR SK.
S/O LT. AHMED ALI
VILL- NO. 1 BHODEYAGURI
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

12: MD. ABER ALI
S/O MOFIZ SK.
VILL- NO. 1 BHODEYAPURI
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

13: FAKAR ALI @ MD. BHUTTU @ FAKARUDDIN
SON OF LT. RAHIJUDDIN SK.
VILL- NO. 2 JOYMA
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

14: ARIZ AHMED @ MD. ARIS SK.
S/O MONOWAR HUSSAIN @ FORIYAL SK.
VILL- NO. 2 JOYMA
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

15: AKABBAR ALI @ MD. EHABBAR ALI
S/O MAYCHAR ALI
VILL- NO. 1 BHODEYAGURI
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

16: MOZIDUL ALI @ MD. MOZI SK.
S/O JOMSER ALI
VILL- NO. 2 JOYMA
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD

ASSAM
PIN-783360

17: AAMINUR RAHMAN @ MD. AMINUR SK.
S/O MAHAMAD ALI
VILL- NO. 2 JOYMA
P.O. BHADEYAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR

BTAD

ASSAM
PIN-78336

VERSUS

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

Advocate for the Petitioner : MR Z KAMAR

Advocate for the Respondent : PP, ASSAM

B E F O R E

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

03.04.2023

1. Heard Mr. Z. Kamar, learned counsel appearing for the petitioners as well as B.B. Gogoi, learned Addl. P.P. appearing for the State respondent.

2. The petitioners, namely, Mofidul Hoque @ Md. Mafi, Qamruzzama @ Md. Kamruz Zaman, Makbul Hussain @ Md. Mokbul Ali, Robbul Hosen @ Md. Rokbul Ali, Majaffor Shek @ Md. Muzzafar Sk, Mafijul Sk, @ Md. Togru Ali, Mrinal Hussain @ Md. Minal Sk, Serajul Ali @ Md. Sirajul Sk., Saiful Islam @ Md. Saiful Sk., Abdul Kaium Sk. @ Md. Moon Sk, Mijanur Hussain @ Md. Mizanur Sk., md. Aber Ali, Fakar Ali @ Md. Bhuttu @ Fakaruddin, Ariz Ahmed @ Md. Aris Sk, Akabbar Ali @ Md. Ehabbar Ali, Mozidul Ali @ Md. Mozi Sk. Aaminur Rahman @ Md. Aminur Sk have filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail as they are apprehending arrest in connection with Gossaigaon P.S. Case No. 137/2023, under Sections 143/147/341/325/279/307/379 IPC,

3. I have given my anxious consideration to the submissions at the Bar and I have perused the case diary.

4. The FIR unfolds that on 26.02.2023 at about 7.00 P.M. Md. Rahimul Ali went to the shop of Md. Saddam Sk, when the petitioners assaulted Rahimul Ali and left him lying in front of Mukhia Dhaba. The informant then went to rescue his son and found the Gaonburah Md. Jamiruddin who assured him to resolve the matter and a meeting was called at 9.00 A.M. on the same day. The informant's son Rahimul Ali and the informant's elder brother Md. Afsar Ali and his nephew Rashidul Ali went to Mukhia Dhaba to meet the Gaonburah, but after some time, on the direction of the Gaonburah, the petitioners assaulted them with the dangerous weapons like crowbar, rod and bamboo sticks causing grievous injuries of their person. On receiving information about the incident, the informant rushed to the spot and forwarded the injured persons to the hospital for medical treatment. After about 10/15 minutes Md. Soleman Ali and Moinul came in a Scorpio vehicle bearing Regd. No. AS-16-H-3345 and also in a swift vehicle and with intent to kill Rahimul Ali and Soleman Ali drove the vehicle towards them and hit the informant's daughter with his scorpio and then attacked the informant's niece Saleha Bibi, and son Md. Majnul Ali, Md. Hakim Ali Rokeya Bibi and others including the informant's and thereafter, Soleman Ali and Moinul fled from the spot. They also robbed of Rs. 20,000/- from Rahimul Ali.

5. It is submitted at the Bar that no overt Act has been attributed to the petitioners. A group clash broke out between both the parties and both sides sustained injuries in the incident. Although, no injury report was forwarded along with the case diary, yet, it is apparent that many persons belonging to both the sides' sustained injuries in the incident. They have been forwarded for treatment. Investigation has progressed to a considerable extent.

6. In view of my foregoing discussions, petition is allowed.

7. In the event of their arrest, the petitioners shall be enlarged on bail of Rs. 30,000/- each with a suitable surety each of like amount to the satisfaction of the arresting authority, under the conditions that,

(i) the petitioners will not hamper or tamper with the evidence;

(ii) the petitioners will refrain from such activities with which they are alleged; and

(iii) the petitioners will co-operate with the investigation and the petitioners will appear before the I/O within 10(ten) days.

JUDGE

Comparing Assistant