

GAHC010064152023



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

Case No. : Bail Appln./1109/2023

MD. SAHABUDDIN SK AND 7 ORS
S/O LT. ROHIJUDDIN SK.
VILL- NO. 1, BHODEAGURI
P.O. BHADEAGURI,
P.S. GOSSAIGAON,
DIST. KOKRAJHAR, BTAD, ASSAM
PIN-783360

2: MOHD. SHAFI
S/O HAJILAL MOHAMMAD

VILL- NO. 1
BHODEAGURI
P.O. BHADEAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360

3: RAZI @ MD. RAZI
S/O MD. SHAFI
VILL- NO. 1 BODEAGURI
P.O. BHADEAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360

4: MD. RIHAN
S/O MD. SHAFI
VILL- NO. 1 BHODEAGURI
P.O. BHADEAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360

5: JAMIRUDDIN SK. @ MD. JAMIRUDDIN
S/OLT. RAHIJUDDIN SK.
VILL - NO. 2 JOYMA
P.O. BHADEAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360

6: JOMSER ALI @ MD. JOMSER ALI
S/OLT. RAHIJUDDIN SK.
VILL- NO. 2 JOYMA
P.O. BHADEAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360

7: SADDAM HUSSAIN @ MD. SADDAM HUSSAIN
S/O JAMIRUDDIN SK.
VILL- NO. 2 JOYMA
P.O. BHADEAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360

8: MOINUL ALI@ MD. MOINUL ALI
S/OJOMSER ALI
VILL- NO. 2 JOYMA
P.O. BHADEAGURI

P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360
(TO BE REP. BY MD. SAHIDUL ISLAM
S/O SAYED ALI
R/O VILL-NO. HUDUM KHATA
P.S. GOSSAIGAON

DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783360

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. This application under Section 439 Cr.P.C, is preferred by the petitioners, namely, 1. Md.

Sahabuddin Sk., 2. Mohd. Shafi, 3. Razi @ Md. Razi, 4. Md. Rihan, 5. Jamiruddin Sk @ Md. Jamiruddin, 6. Jomser Ali @ Md. Jomser Ali, 7. Saddam Hussain @ Md. Saddam Hussain and 8. Moinul Ali @ Md. Moinul Ali, who are in judicial custody since 27.02.2023 and 28.02.2023 respectively, in connection with Gossaigaon P.S. Case No. 137/2023, registered under Sections 143/147/341/325/279/307/379 IPC.

3. I have considered the submissions at the Bar and I have also 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 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 there are incriminating materials against the petitioner and 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. Considering the length of detention and the progress of investigation, petition is allowed.

6. The petitioners are to be enlarged on bail of Rs. 30,000/- each with a suitable surety each of like amount to the satisfaction of learned SDJM(M), Gossaigaon,

Under the conditions that,

- (i) the petitioners will refrain from such activities with which they are alleged.
- (ii) the petitioners will not tamper with the evidence and the petitioners will not leave the jurisdiction of the Court without prior permission till completion of investigation.

Accordingly, this petition stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant