

GAHC010103982023



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

Case No. : Bail Appln./1712/2023

MEHBOOB ALOM AND 9 ORS
S/O SHAH ALOM
R/O VILL- BUNDASHIL
P.S. BADARPUR
DIST. KARIMGANJ, ASSAM

2: JUNAID AHMED
S/O MD. ABDUL JALIL
R/O VILL- GHORKAPON
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

3: ALI AKBAR
S/O LT. AFTAR UDDIN
R/O VILL- GHORKAPON
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

4: MOKTAR AHMED
S/O LT. MOTAHIR ALI
R/O VILL- KUNAPARA
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

5: MASUK AHMED
S/O LT. ABDUL MANIK
R/O VILL- BUNDASHIL
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

6: MASHUDA UDDIN @ MILAN UDDIN
S/O MOKLISUR RAHMAN
R/O VILL- DIGHIRPAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

7: ABDUL HASIB BAIG
S/O ABDUL HANNAN BAIG
R/O VILL- BUNDASHIL
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

8: AKRAR HUSSAIN
S/O FAKAR UDDIN
R/O VILL- SALEBARI
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

9: AHAD UDDIN @ KAMAL
S/O LT. HUSSAIN AHMED
R/O VILL- DEORAIL
P.S. BADARPUR
DIST. KARIMGANJ
ASSAM

10: KOBIR HUSSAIN
S/O FAZLUR RAHMAN
R/O VILL- JALALPUR
P.S. BADARPUR
DIST. KARIMGANJ
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

26.05.2023

Heard Mr. H.R.A. Choudhury, learned Senior Counsel for the accused-petitioners and Mr. B.B. Gogoi, learned Addl. Public Prosecutor, Assam for the State.

2. This bail application has been filed by the petitioners, namely **1. Mehboob Alom, 2. Junaid Ahmed, 3. Ali Akbar, 4. Moktar Ahmed, 5. Masuk Ahmed, 6. Mashuda Uddin @ Milan Uddin, 7. Abdul Hasib Baig, 8. Akrar Hussain, 9. Ahad Uddin @ Kamal, 10. Kobir Hussain,** seeking bail in connection with Badarpur P.S. Case No. 89/2023 under Sections 143/186/353/307/387 of the IPC.

3. The learned Senior counsel for the accused-petitioners submits that an FIR dated 31.03.2023 was lodged by the informant one Bijoy Goswami, who is the Sub-Inspector of the Badarpur Police Station. In the said FIR, it was alleged that at about 9.30 PM, the accused persons named in the FIR had gathered in an unlawful assembly demanding released of another person namely one Ruhul Amin who was detained in connection with Badarpur P.S. Case No. 81/2023 under Sections 447/448/324/427 of the IPC and Badarpur P.S. Case No. 88/2023 under Sections 353/186/312/307 of the IPC. It was alleged that the said unlawful assembly, attempted to break through the gate of the Badarpur Police Station and obstructed the police party on duty. They attempted to kill the Officer-in-Charge of the Badarpur Police Station, namely Inspector Chandan Goswami and also threatened to burn the Thana down if the said person arrested was not released immediately. It is alleged that provocative language

was also used by the accused persons which created further law and order situation. It was alleged that these anti-social elements were involved in criminal activities in the whole incident. The learned Sr. Counsel for the accused-petitioners submits that the incident which arose due to the parking of a vehicle by another person namely Ruhul Amin, who was ultimately arrested. It is stated that there are news reports in respect of the incident which occurred on 30.03.2023, copies of which are enclosed to the bail application at Page-28 & 29, wherein it was stated that the Officer-in-Charge, Badarpur Police Station misbehaved with the said person over a dispute relating to car parking and because of that the people nearby got angry and demanded the Officer-in-Charge, Badarpur Police Station to be suspended. The people demanded the removal or suspension of the Officer-in-Charge, Badarpur Police Station and had gathered on the national highway causing obstruction to traffic. The learned Senior Counsel submits that people had subsequently dispersed upon the assurances given by the Addl. S.P., Karimganj. The learned Sr. Counsel submits that considering the period of detention and also the fact that they are not at all connected with the offences alleged, the prayer for bail be granted by this Court.

4. Mr. B.B. Gogoi, learned Addl. PP has submitted the case diary but the injury report is not available.

5. The case diary produced has been perused. It is seen that in the FIR itself there is no allegation that any injury was caused to the informant or the police party. Upon careful perusal of the case diary, it is seen that the local people gathered there pursuant to the altercation between the said person Ruhul Amin and the Officer-in-Charge, Badarpur Police Station over an incident relating to a car parking. The said person was thereafter arrested and taken into the custody

in connection with separate case registered under the Badarpur Police Station. It is seen from the order dated 09.05.2023 passed by the Court of Addl. Sessions Judge, Karimganj that the said person was released on bail and a copy thereof is enclosed as Annexure-6 to the bail application.

6. Having considered the submissions made by the learned counsels for the parties and upon perusal of the case diary, this Court is of the view that further custodial detention of the petitioners are not necessary at this stage of the investigation. The investigation has progressed considerably and no incriminating materials are found against the petitioners which warrant further detention of the petitioners at this stage of investigation. Although charge-sheet has not been filed, there are no materials in the case diary which suggests the release of the petitioners on bail at this stage of investigation will interfere with the investigations carried on.

7. Considering all of the above, this Court is of the view that the petitioners can be released on bail forthwith.

8. Therefore, the accused-petitioners, named above, shall be released on bail in connection with the aforementioned case, on furnishing a bail bond of Rs. **25,000/-** (Rupees Twenty Five Thousand) each with one local solvent surety of like amount to the satisfaction of the Court of Chief Judicial Magistrate, Karimganj, subject, of course, to the following conditions:

(i) That the accused-petitioners shall appear before the competent Court on each and every date as and when required;

(ii) That the accused-petitioners shall not hamper or tamper with the investigation in any manner;

(iii) That the accused-petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

(iv) That the accused-petitioners shall not move out the jurisdiction of the Competent Court without permission.

9. If any of the conditions are violated, the competent Court will be at liberty to cancel the bail by this Court.

10. Accordingly, the bail application stands disposed of.

11. Return the case diary.

JUDGE

Comparing Assistant