

GAHC010107362023



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

Case No. : AB/1781/2023

SICHIR ALI AND 4 ORS
S/O LATE ABAJ UDDIN, R/O VILL-KALBARI, P.S.-SORBHOG, DIST-BARPETA
(ASSAM)

2: ATAR ALI @ TIGER
S/O SICHIR ALI
R/O VILL-KALBARI
P.S.-SORBHOG
DIST-BARPETA (ASSAM)

3: ABUL HUSSAIN @ PADURE
S/O SICHIR ALI
R/O VILL-KALBARI
P.S.-SORBHOG
DIST-BARPETA (ASSAM)

4: ABDER ALI @ ATOWAR ALI (PITKA)
S/O SICHIR ALI
R/O VILL-KALBARI
P.S.-SORBHOG
DIST-BARPETA (ASSAM)

5: SOFIOR RAHMAN @ SAPIYE RAHMAN
S/O LATE ABBAS UDDIN
R/O VILL-KALBARI
P.S.-SORBHOG
DIST-BARPETA (ASSAM)

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 01.08.2023

Heard Mr. M.I. Hussain, learned counsel for the petitioners. Also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam.

2. This Anticipatory Bail petition has been filed by the petitioners, namely, (1) Sichir Ali, (2) Atar Ali @ Tiger, (3) Abul Hussain @ Padure, (4) Abder Ali @ Atowar Ali (Pitka) & (5) Sofior Rahman @ Sapiye Rahman, who are apprehending their arrest in connection with Sorbhog Police Station Case No. 31/2023 registered under Sections 120(B)/147/341/326/302/435 of the IPC.

3. 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 said FIR was received and registered as Sorbhog Police Station Case no. 31/2023 registered under Sections 120(B)/147/341/326/302/435 of the IPC. During the course of investigation, the petitioners were required to appear before the Investigating Officer (I.O.) of the case in connection with investigation carried out. After apprehending their arrest, they

had approached this Court earlier by A.B. no. 741/2023. This Court by order dated 27.04.2023 upon due consideration of the materials available in the CD rejected the prayer for anticipatory bail as prayed for by the petitioners.

4. Following the earlier rejection of the bail petition, the present anticipatory bail application has been filed.

5. Mr. B. Sarma, learned Additional Public Prosecutor, Assam has submitted that investigation has been completed and charge-sheet in the matter has been filed on 16.05.2023 vide Charge-Sheet no. 41/2023.

6. Upon hearing the learned counsels for the parties, this Court is of the view that the anticipatory bail petition can be closed permitting the petitioners to approach the competent Court before which the charge-sheet, as referred above, has been filed. Upon filing any such applications seeking bail, the competent court will hear the petitioners and pass necessary orders on its own merit taking into account the law laid down by the Apex Court in ***Siddharth Vs State of Uttar Pradesh and Anr***, reported in **(2022) 1 SCC 676** and Judgment dated 20.03.2023 rendered in ***Mahdoom Bava Vs Ventral Bureau of Investigation*** in Criminal Appeal No.....of 2023 (Arising out of SLP (Crl) No. 376 of 2023), it is no longer *res integra* that appearance of the accused persons pursuant to summons being issued do not necessarily in all cases require orders directing the accused to be taken into custody as a matter of course. When the law has already been laid down by the Apex Court, no further orders are necessary to be passed by this Court.

7. Upon due consideration of the individual merit as well as taking into consideration of law laid down by the Apex Court, the competent court will thereafter pass the necessary orders.

8. It is needless to say that the petitioners will be at liberty to urge all facts and make any submission pertaining to the case which may have been made before this Court, while filing the application for bail before the competent Court before which the charge-sheet has

been filed.

9. With the above observation, the anticipatory bail application is disposed of.

JUDGE

Comparing Assistant