

GAHC010119732023



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

Case No. : AB/1961/2023

ABDUL GONI BARBHUIYA AND 6 ORS
S/O- LT. BOSIR UDDIN BARBHUIYA, VILL- KUCHILA GRANT, P.O. KUCHILA
BAZAR, P.S. AND DIST.- HAILAKANDI, ASSAM

2: ABDUL JALIL @ ABDUL JALIL BARBHUIYA
S/O- LT. BOSIR UDDIN BARBHUIYA
VILL- KUCHILA GRANT
P.O. KUCHILA BAZAR
P.S. AND DIST.- HAILAKANDI
ASSAM

3: MD. LUTFUR RAHMAN @ LUTFUR RAHMAN BARBHUIYA
S/O- LT. BOSIR UDDIN BARBHUIYA
VILL- KUCHILA GRANT
P.O. KUCHILA BAZAR
P.S. AND DIST.- HAILAKANDI
ASSAM

4: ALIM UDDIN BARBHUIYA
S/O- LT. BOSIR UDDIN BARBHUIYA
VILL- KUCHILA GRANT
P.O. KUCHILA BAZAR
P.S. AND DIST.- HAILAKANDI
ASSAM

5: AKBAR HUSSAIN BARBHUIYA
S/O- LUTFUR RAHMAN BARBHUIYA
VILL- KUCHILA GRANT
P.O. KUCHILA BAZAR
P.S. AND DIST.- HAILAKANDI
ASSAM

6: DULU CHOUDHURY
S/O- BUTTU CHOUDHURY

VILL- KUCHILA GRANT
P.O. KUCHILA BAZAR
P.S. AND DIST.- HAILAKANDI
ASSAM

7: SAMIM UDDIN @ SAMIM UDDIN BARBHUIYA
S/O- LT. FOIZUL HOQUE BARBHUIYA
VILL- KUCHILA GRANT
P.O. KUCHILA BAZAR
P.S. AND DIST.- HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

20.06.2023

1. Heard Mr. A.M. Borbhuiya, learned counsel for the petitioners as well as Mr. K.K. Das, learned Addl. P.P. appearing for the State respondent.
2. The petitioners, namely, Abdul Goni Barbhuiya, Abdul Jalil @ Abdul Jalil Barbhuiya, Md. Lutfur Rahman @ Lutfur Rahman Barbhuiya, Alim Uddin Barbhiya, Akbar Hussain Barbhuiya, Dulu Choudhury, Samim Uddin @ Samim Uddin Barbhuiya, have filed this application under Section 438 Cr.P.C with prayer for pre-arrest bail as they are apprehending arrest in connection with Hailakandi P.S. Case No. 81/2023, under Sections

147/148/149/447/427/326/307/354(B)379 IPC.

3. I have considered the submissions at the Bar with circumspection and I have also scrutinized the case diary.

4. The allegation against the petitioners is that on 18.04.2023 at about 11.30 to 12.00 A.M, there was a heated argument between Alim Uddin Barbhuiya and Komrul Islam regarding the passing of two vehicles, when the petitioners assaulted Komrul Islam. Again on 19.04.2023, to avenge the previous incident at about 5.30 P.M., the petitioner armed with deadly weapons attacked Saju Ahmed Laskar causing grievous injuries on his head and causing fracture on the hand of Ekbal Hussain Laskar. Mahmood Halim was also injured during the attacked and thereafter, when the informant Dilowar Hussain Laskar went to help Mahmood Halim, he was assaulted in the process. At about 6.00 P.M. Lutfur Rahman forcefully entered into the informant's sister house and thereafter Lutfur Rahman Barbhuiya and Alim Uddin Barbhuiya outraged her modesty. The accused persons/petitioners also broke into the house of the Ziaur Rahman Laskar and caused grievous injuries on his hand. They also injured Ayub Uddin Laskar and Baharul Alom. The petitioners also assaulted Rahela Begum and she sustained grievous injuries. All the injured persons shifted to the hospital for treatment.

5. The injury report reveals that the Ziaur Rahman Laskar sustained injuries on his elbow and Baharul Islam fracture sustained of his skull and forehead. The medico legal report suggesting that sharp weapons were used to against the victims. There are incriminating materials against the petitioner nos. 1,2,3,4 and 5.

6. Considering the import of the Section, under which the petitioners are booked. The

petitioner nos. 1,2,3,4 and 5 are not granted pre-arrest bail. The prayer of the petitioner nos. 6 and 7 is allowed, after considering the case diary.

7. In the event of their arrest, the petitioner nos. 6 and 7 shall be enlarged on bail of Rs. 50,000/- each with a suitable surety each of like amount to the satisfaction of the arresting authority,

under conditions that,

- (i) the petitioners will not exercise threats to the witnesses and will not tamper with the evidence,
- (ii) the petitioners will appear before the I/O within 7(seven) days and co-operate with the investigation, and
- (iii) the petitioners will refrain from such activities with which they are alleged, failing which the bail order of the petitioner nos. 6 and 7 will be cancelled.

Send back the case diary.

JUDGE

Comparing Assistant