

GAHC010153712022



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

Case No. : AB/2189/2022

ASKAR UDDIN CHOUDHURY AND ANR
S/O LATE KHALIL UDDIN CHOUDHURY
R/O VILL- SAIDPUR PT.II
P.S. SILCHAR
DIST. CACHAR, ASSAM

2: NIZMAL HUSSAIN CHOUDHURY @ RIJMAL HUSSAIN CHOUDHURY
S/O LATE KHALIL UDDIN CHOUDHURY
R/O VILL- SAIDPUR PT.II
P.S. SILCHAR
DIST. CACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

21-02-2023

Heard Mr. N.H. Laskar, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi,

learned Additional Public Prosecutor, Assam.

2. By filing this application under Section 438 of the Cr.P.C., the 2 (two) petitioners, namely, Askar Uddin Choudhury and Nizmal Hussain Choudhury @ Rijmal Hussain Choudhury, are seeking bail in connection with Silchar P.S. Case No.545/2022 under Sections 143/341/325/326/307/379/506 IPC.

3. The allegations against the petitioners are that they assaulted one Nizam Uddin Barbhuiya causing grave injuries on his person. When one Julahar Alom Barbhuiya tried to save the injured person, he was also assaulted with sharp and dangerous weapon at various parts of his body. The accused persons named in the FIR after assaulting them snatched away Driving Licence, Aadhar Card, Pan Card, Voter ID & One Realme Mobile Phone along with SIM card and Rs.5,000/- from Julahar Alom Barbhuiya and Rs.3000/- from Nizam Uddin Barbhuiya.

4. It is submitted on behalf of the petitioners that a cross case was also lodged by the petitioners against the informant's side. The cross case (being FR No.2414/2022 dated 31.07.2022) has ended in the final report.

5. The petitioners have also prayed that they should get relief on the ground of parity as the co-accused have already been released on bail in connection with AB Case No.1641/2022.

6. The learned Additional PP has produced the case diary and has opposed the prayer for bail on the ground that both sides are having old and continuous quarrel.

7. I have considered the submissions advanced by the learned counsel for the parties. I have also perused the medical reports of the injured persons and Case Diary

8. This Court vide order dated 06.08.2022 has already granted bail to both the petitioners.

9. From the medical report, it has been noticed that the injuries are simple in nature and it is evident from the Case Diary that a group clash erupted between both the sides.

10. Considering all aspects and considering the submissions at the bar, this Court is of the considered opinion that custodial interrogation of the petitioners may not be necessary and accordingly, the present petition is allowed.

11. The interim pre-arrest bail granted to the petitioners, namely, Askar Uddin Choudhury and Nizmal Hussain Choudhury @ Rijmal Hussain Choudhury by order dated 06.08.2022 is hereby made absolute, under the condition that the petitioners will refrain from such activities with which they are alleged.

12. Application stands disposed of.

13. Return the Case Diary.

JUDGE

Comparing Assistant