

GAHC010162392023



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

Case No. : AB/2614/2023

ABDUL GONI BARBRBHUIYA AND 4 ORS
S/O LT. BOSIR UDDIN BARBHUIYA
VILL- KUCHILA GRANTH
P.O. KUCHILA BAZAR, PO.S. AND DIST. HAILAKANDI, ASSAM

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

4: ALIM UDDIN BARBHUIYA @ ALIM BARBHUIYA
S/OLT. BOSIR UDDIN
BARBHUIYA
VILL- KUCHILA GRANTH
P.O. KUCHILA BAZAR

P.S. AND DIST. HAILAKANDI
ASSAM

5: AKBAR HUSSAIN BARBHUIYA
S/OLT. LUTFUR RAHMAN BARBHUIYA
VILL- KUCHILA

GRANTH
P.O. KUCHILA BAZAR

P.S. AND DIST. HAILAKANDI
ASSAM

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

19.09.2023

Heard Mr A M Barhbhuiya, learned counsel for the petitioners

2. By this application filed under Section 438 CrPC, the petitioner Nos. 1) Abdul Goni Barbhuiya, 2) Abdul Jalil @ Abdul Jalil Barbhuiya, 3) Md. Lutfur Rahman @ Lutfur Rahman Barbhuiya, 4) Alim Uddin Barbhuiya @ Alim Barbhuiya, and 5) Akbar Hussain Barbhuiya, have prayed for pre-arrest bail, as they are apprehending arrest in connection with Hailakandi PS Case No. 81/2023, registered under Sections 147/148/149/447/427/326/307/354(B)/379 of the Indian Penal Code, corresponding to GR Case No. 493/2023.

3. This is a subsequent application filed by the petitioners on the fresh ground that the petitioners, on the contrary had been attacked by the informant and his family members and they acted in self-defence.

4. Heard Mr P S Lahkar, learned Additional Public Prosecutor appearing on behalf of the State of Assam.

5. The allegation against the petitioners is that on 18.04.2023, at about 11:30 to 12:00 am, 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 05:30 pm, the petitioners 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 attack and thereafter, when the informant Dilowar Hussain Laskar went to help Mahmood Halim, he was assaulted in the process. At about 06:00 pm, Lutfur Rahman forcefully entered into the informant's sister's house and, thereafter, Lutfur Rahman Barbhuiya and Alim Uddin Barbhuiya outraged her modesty. The petitioners also broke into the house of Ziabur Rahman Laskar and caused grievous injuries on his hand. They also injured Ayub Uddin Laskar and Baharul Alom.

6. The learned Additional Public Prosecutor has raised serious objection against the bail petition, stating that all the petitioners were involved in the incident and Md. Lutfur Rahman Barbhuiya, along with Akbar Hussain Barbhuiya led the petitioners as well as the other accused, who assaulted the informant's family members.

7. I have perused the Case Diary and I have considered the submissions at the Bar with circumspection.

8. It is submitted at the Bar that the petitioners will cooperate with the investigation. It was a group clash but all the petitioners were not involved in causing the grievous injuries sustained by Ziabur Rahman Laskar, Baharul Alom and Ayub Uddin Laskar.

9. I have also considered the submissions of the learned Additional Public Prosecutor that the statements of the witnesses clearly indicates that the grievous injuries sustained by Baharul Alom was caused by the petitioner No. 2, Abdul Jalil @ Abdul Jalil Barbhuiya.

10. I have considered the role of the petitioners. They are indeed alleged with the

heinous offence of causing injuries not on one but on three persons. However, I have considered the submissions made on behalf of the petitioners that they would appear before the Investigating Officer and cooperate with the investigation.

11. Considering the submissions made on behalf of the petitioners and considering all aspects, the petitioner Nos. 1) Abdul Goni Barbhuiya, 3) Md Lutfur Rahman @ Lutfur Rahman Barbhuiya, 4) Alim Uddin Barbhuiya and 5) Akbar Hussain Barbhuiya, are granted pre-arrest bail and in the event of their arrest, the petitioners shall be enlarged on bail on furnishing bail bonds of Rs. 50,000/- each with a local surety of the like amount to the satisfaction of the arresting authority under the conditions that:-

i) They will appear before the Investigating Officer within 10 days from today and cooperate with the investigation.

ii) They will refrain from such activities with which they are alleged, failing which, bail order will be cancelled.

12. The prayer made on behalf of the petitioner No. 2, Abdul Jalil @ Abdul Jalil Barbhuiya, is rejected at this stage.

13. Bail Application stands disposed of.

14. Send back the Case Diary.

JUDGE

Comparing Assistant