

GAHC010168012023



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

Case No. : AB/2687/2023

ABDUL KARIM SK AND 6 ORS
S/O LATE SIBAROT ALI, VILL-BARO BAK JHAPA, P.S.-SUKCHAR, DIST-
SOUTH SALMARA MANKACHAR, ASSAM

2: HASAN ALI
S/O ABDUL KARIM
VILL-BARO BAK JHAPA
P.S.-SUKCHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

3: SHAHIDUR RAHMAN
S/O ABDUL KARIM SK
VILL-BARO BAK JHAPA
P.S.-SUKCHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

4: NAL BAHAR SK
S/O LATE AFTER ALI SK
VILL-BARO BAK JHAPA
P.S.-SUKCHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

5: HOZORAT ALI
S/O NAL BAHAR SK
VILL-BARO BAK JHAPA
P.S.-SUKCHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

6: BOKKOR ALI
S/O NAL BAHAR SK

VILL-BARO BAK JHAPA
P.S.-SUKCHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

7: SOBED ALI
S/O LATE SIBAROT ALI
VILL-BARO BAK JHAPA
P.S.-SUKCHAR
DIST-SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. S U AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

09.08.2023

Heard Mr S U Ahmed, learned counsel for the petitioner. Also heard Ms A Begum, learned Additional Public Prosecutor for the State of Assam.

2. This bail application under Section 438 of the Code of Criminal Procedure, 1973, has been preferred by petitioner Nos. 1) Abdul Karim Sk, 2) Hasan Ali, 3) Shahidur Rahman, 4) Nal Bahar Sk, 5) Hozorat Ali, 6) Bokkor Ali and 7) Sobed Ali, who are apprehending their arrest in connection with Sukchar PS Case No. 168/2023, under Sections 341/325/324/392/34 IPC.

3. The accusation in this case is that on 28.06.2023, one Maulana Zahan Uddin lodged the FIR before the Officer-In-Charge of Sukchar Police Station, *inter alia*, alleging that on 25.06.2023, at about 05:00 pm, the accused persons named in the FIR (total 8 accused) have

assaulted the nephew of the first informant, namely, Mustakim Sk. and has caused injuries on his person and also snatched away one Oppo mobile phone, along with Rs. 60,000/- from the nephew of the first informant.

4. On receipt of the FIR, Sukchar PS Case No. 168/2023 was registered under Sections 341/325/324/392/34 IPC.

5. Learned counsel for the petitioner has submitted that in fact, there was an altercation on 25.06.2023, between the accused No. 4, named in the FIR, namely, Mithun Sk. and the nephew of the first informant, namely, Mustakim Sk., as the accused No. 4 used to work under the nephew of the first informant and there was some outstanding payment to be given to the accused No. 4 by the said Mustakim.

6. It is also submitted by the learned counsel for the petitioner that in the meanwhile, the main accused, i.e., Mithun Sk. was arrested by the Police and on 17.07.2023, the Court of learned JMFC, Hatsingimari, granted bail to the said accused after perusal of the Case Diary. While granting bail to the main accused, learned Court below observed that from the medical report, which was available before the Court, only simple injuries on the person of said Mustakim was revealed. Learned counsel for the petitioner has submitted that as the main accused has already been granted bail, the present petitioner may be allowed to go on bail in the event of their arrest and they will cooperate in the investigation of the case.

7. On the other hand, learned Additional Public Prosecutor has opposed to the grant of bail of the present petitioner on the ground of allegations leveled against the present petitioner in the FIR and submits that perusal of the Case Diary is necessary.

8. I have considered the submissions made by the learned counsel for both the sides and have also gone through the materials placed before me, along with the bail petition, including the order dated 17.07.2023, passed by the learned JMFC, Hatsingimari, whereby the main accused, Mithun Sk. was granted bail by the said Court.

9. Considering the fact that the present petitioners have admitted that there was altercation between the main accused, Mithun Sk. and the nephew of the first informant, Mustakim Sk., on 25.06.2023 and thereafter, the main accused, Mithun Sk. was arrested and

subsequently granted bail and considering the fact that the present petitioners are permanent residents of Village Boro Bak Jhapa under Sukchar Police Station and they are ready to cooperate with the Investigating Officer, the petitioner Nos. 1) Abdul Karim Sk, 2) Hasan Ali, 3) Shahidur Rahman, 4) Nal Bahar Sk, 5) Hozorat Ali, 6) Bokkor Ali and 7) Sobed Ali, are hereby directed to appear before the Investigating Officer of Sukchar PS Case No. 168/2023, within a period of 10 (ten) days from today and cooperate with the Investigating Officer. If they do so within the stipulated period of time, in the event of their arrest in connection with Sukchar PS Case No. 168/2023, they shall be allowed to go on bail of Rs. 30,000/- each, with one surety each of the like amount to the satisfaction of the arresting authority, subject to the following conditions:-

- 1) They shall cooperate with the Investigating Officer of the said case.
- 2) They 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 Investigating Officer.

10. With the aforesaid observations, this Anticipatory Bail Application stands disposed of.

JUDGE

Comparing Assistant