

GAHC010170442023



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

Case No. : AB/2727/2023

RAJBALLAV BARUAH @ RAJPALLAB BARUAH AND 2 ORS
S/O- DURGA RAM BARUAH,
R/O- PAKHAMELA, HAJO , BIDYAPUR,
P.S- HAJO,
DIST- KAMRUP, ASSAM

2: PAPON DAS @ANUP DAS
S/O- DABEN DAS

R/O- SAKTIBARI (HAHDIA)

P.S- HAJO
DIST- KAMRUP
ASSAM

3: ARPAN JYOTI DAS @ DADU DAS
S/O- DABEN DAS

R/O- SAKTIBARI (HAHDIA)
P.S- HAJO
DIST- KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 29.09.2023

- 1.** Heard Mr. S. M. Abdullah P., learned counsel for the petitioners. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.
- 2.** This application under Section 438 of the Code of Criminal Procedure, 1973, has been filed by the petitioners, namely, Rajballav Baruah @ Rajpallab Baruah, (2) Papon Das @ Anup Das and (3) Arpan Jyoti Das @ Dadu Das, who are apprehending their arrest in connection with Hajo P. S. Case No. 472/2023 under Section 342/302/34 of the Indian Penal Code.
- 3.** The accusation in this case is that on 18.07.2023 one Utpal Pathak lodged an FIR before the Officer-In-Charge of Hajo Police Station, *inter-alia*, alleging that the accused persons named in the FIR including the petitioner no. 1 Shri Rajballav Baruah @ Rajpallab Baruah had assaulted the son of the first informant and as a result of which the son of the first informant succumbed to the injuries.
- 4.** On receipt of the said FIR, Hajo P. S. Case No. 472/2023 was registered.
- 5.** Learned counsel for the petitioners submits that the deceased was apprehended by the local people while committing theft and he assaulted by the public there and the petitioner no. 1 was not present there whereas petitioner nos. 2 & 3 were only onlookers.
- 6.** Learned counsel for the petitioners submits that the petitioners are permanent resident of Hajo under the jurisdiction of Hajo Police Station and they are ready to co-operate with the Investigating Officer.
- 7.** Learned counsel for the petitioners also submitted that two co-accused

namely, (1) Deben Das, and (2) Durga Ram Baruah have already been granted to go on bail by this Court in AB No. 2542/2023.

8. Learned Additional Public Prosecutor has produced the case diary of Hajo P. S. Case No. 472/2023 and has submitted that the deceased died due to assault by mob and though there are some implicating materials against one Krishna Sardar and one Sanjeev Mishra, however at this stage of investigation, there is no incriminating material in the case diary against the present petitioners.

9. However, learned Additional Public Prosecutor submits that the investigation is still going on and the Investigating Officer has already collected the post mortem Report.

10. Considering the submissions made by the learned counsel for the parties and considering the materials available in the case diary, the above named petitioners are directed to appear before the Investigating Officer of Hajo P. S. Case No. 472/2023 within a period of ten (10) days from the date of this order and co-operate in the investigation, and if they do so within the stipulated period of time, in the event of their arrest in connection with Hajo P. S. Case No. 472/2023, they shall be allowed to go on bail of Rs. 30,000/- (Rupees Thirty Thousand only) each, with one surety of like amount to the satisfaction of the arresting authority subject to the condition that they shall co-operate in the investigation.

11. With the above observations, this anticipatory bail application is disposed of.

JUDGE

Comparing Assistant