

GAHC010175652023



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

Case No. : AB/2825/2023

ABDUL BAREK @ ABDUL BAREQUE AND 8 ORS
S/O LT. BASER GAZU
R/O VILL- KAHIKUCHI
MOUZA-NAGAON, P.S. AND DIST. BARPETA, ASSAM

2: INNAS ALI @ INNAS ALI AHMED
S/O LT. ABDUL HAI
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. AND DIST. BARPETA
ASSAM

3: ISMAIL HUSSAIN @ ABDUL ISMAIL HUSSAIN
S/O LT. ABDUL HAI
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. AND DIST. BARPETA
ASSAM

4: IUSUB ALI
S/O LT. ABDUL HAI
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. AND DIST. BARPETA
ASSAM

5: ABDUL GANI
S/O LT. BASER HAZI
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. AND DIST. BARPETA
ASSAM

6: MAFIZ UDDIN @ MOFIZUL ISLAM

S/O LT. ABDUL KASEM
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. ND DIST. BARPETA
ASSAM

7: RAFIQU ALI @ RAFIQU AL ISLAM
S/O ABDUL RAHMAN
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. ND DIST. BARPETA
ASSAM

8: SIRAJ ALI @ SHIRAJULISLAM
S/O ABDUL KASHEM
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. ND DIST. BARPETA
ASSAM

9: SAFIQU ALI @ SAFIQU AL ISMAIL
S/O ABDUL SALAM
R/O VILL- KAHIKUCHI
MOUZA-NAGAON
P.S. ND DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 09.11.2023

Heard Mr. S. C. Biswas, learned counsel for the petitioner. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State respondent who has also submitted the case diary of Barpeta P. S. Case No. 332/2023 and has submitted that though the statement of the present petitioners have already been recorded by the Investigating Officer, however, against the accused petitioner Nos. 2, 3, 4 and 9, there are incriminating material in the case diary and on that ground she opposes the grant of bail to the present petitioners.

On the other hand, Mr. S. C. Biswas, learned counsel for the petitioners has submitted that the present petitioners were granted interim anticipatory bail by order dated 14.08.2023 and in pursuant to the directions of this Court, all the petitioners have appeared before the Investigating Officer and have co-operated in the investigation.

It is also submitted by the learned counsel for the petitioner that the Court of learned Sessions Judge, Barpeta while granting the anticipatory bail to one of the co-accused, namely, Lakir Hussain_has observed after perusal of the case diary that at this stage of investigation, there is no material to implicate the accused persons under Section 382 of the Indian Penal Code.

I have considered the submissions made by the learned counsel for both sides and perused the case diary.

Though there are incriminating materials against the petitioner nos. 2, 3, 4 and 9 in the case diary, however, considering the fact that the present

petitioners have complied with the order of this Court and have co-operated in the investigation and also considering the fact that their statement have already been recorded by the Investigation Officer under Section 161 of the Code of Criminal Procedure, 1973, this Court is of the considered opinion that their custodial detention may not be necessary for fair completion of the investigation of the case. Therefore, the interim anticipatory bail granted to the petitioners namely, (1) Abdul Barek @ Abdul Bareque, (2) Innas Ali @ Innas Ali Ahmed, (3) Ismail Hussain @ Abdul Ismail Hussain, (4) Iusub Ali, (5) Abdul Gani, (6) Mafiz Uddin @ Mofizul Islam, (7) Rafiqul Ali @ Rafiqul Islam, (8) Siraj Ali @ Shirajul Islam and (9) Safiqul Ali @ Safiqul Islam, by order dated 14.08.2023 is hereby made absolute.

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

JUDGE

Comparing Assistant