

GAHC010217942022



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

Case No. : AB/3195/2022

MD. BUBUL ALI AND 3 ORS.
S/O LATE WAJID ALI
R/O VILL- SATKHOLI
P.O. SATKHOLI
P.S. SIPAJHAR
DIST. DARRANG, ASSAM

2: MD. WAHADUL ALI
S/O LATE WAJID ALI
R/O VILL- SATKHOLI
P.O. SATKHOLI
P.S. SIPAJHAR
DIST. DARRANG
ASSAM

3: SEMIM AJBAHAR
D/O LATE WAJID ALI
W/O LATE MUSARAF ALI
R/O VILL- SATKHOLI
P.O. SATKHOLI
P.S. SIPAJHAR
DIST. DARRANG
ASSAM

4: MEHERUN NESSA
D/O LATE WAJID ALI
W/O SUFI ALI
R/O VILL- SATKHOLI
P.O. SATKHOLI
P.S. SIPAJHAR
DIST. DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR M HOQUE

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 01-03-2023

- 1.** Heard Mr. HRA Choudhury, learned Senior Counsel for the petitioners assisted by learned counsel Mr. M. Hoque. Also heard Mr. B.B. Gogoi, learned Addl. P.P. for Respondent State of Assam and Mr. S.K. Jain, learned counsel for the informant.
- 2.** By this application under Section 438 of Code of Criminal Procedure, 1973 [CrPC], the petitioners namely, [1] Md. Bubul Ali [2] Md. Wahadul Ali [3] Semim Ajbahar and [4] Meherun Nessa have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest, in connection with Sipajhar Police Station Case No. 320/2022, corresponding to G.R. Case No. 1302/2022 under Sections 341/325/326/307/34 IPC.
- 3.** The Case Diary is received but the Injury Reports are not forwarded.
- 4.** The learned counsel for the informant has submitted copies of the injuries of the victims stating that he has serious objection against the bail petition. The learned Addl. P.P. has also stated that without Injury Report bail prayer cannot be considered.
- 5.** The learned Senior Counsel for the appellant has argued that this case is pending for Injury Report as well as the Case Diary since 02.11.2022. At present Case Diary is received without the Injury Report.
- 6.** I have perused the Case Diary. The FIR unfolds that on 06.08.2022 at about 9:30 AM

the informant's father was assaulted by the accused named in the FIR. They used one iron rod and dealt a blow on his head causing head injuries. When his father raised alarm the informants brother went to the place of occurrence but they were also restrained and assaulted with weapons like dao, siprang etc. The injured persons were taken to the hospital.

7. It is submitted by the learned counsel for the informant that the injured persons are still undergoing treatment at GMCH as the injuries are grievous in nature.

8. I have perused the CD. Investigation has progressed to a considerable extent. I have also considered the prayer of the petitioners on the ground of parity where the co-accused Ziarul Haque @ Ziarul and Nur Ali @ Nur Amin were enlarged on bail. I have also considered the statements of the witnesses under Section 161/164 Cr.PC.

9. The learned Addl. P.P. has also raised objection by stating that the statements under Section 161/164 Cr.P.C. incriminates the petitioners.

10. I have considered the submissions about the group clash between the parties. An FIR has also been lodged against the informant of this case by Bubul Ali relating to the same incident and the FIR was registered as Sipajhar P.S. Case No. 321/2022.

11. Two of the petitioners namely, Md. Bubul Ali and Md. Wahadul Ali shall be enlarged on bail of Rs. 50,000/- with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that –

- i. the petitioners will appear before the IO within 10 days and cooperate with the investigation; and
- ii. the petitioners will refrain from such activities with which they are alleged.

12. The interim order in favour of the petitioner Nos. 3 and 4 dated 02.11.2022 is hereby made absolute.

Send back the CD.

The photographs submitted by the learned counsel for the informant will remain as part of this record.

JUDGE

Comparing Assistant