

GAHC010228252022



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

Case No. : AB/3331/2022

RAHIM ALI @ ABDUL RAHIM AND 5 ORS.
S/O- LT. HUSSAIN ALI, R/O- PURAGAON, P.O. CHUKRUNGBARI, P.S.
SORBHOG, DIST.- BARPETA, ASSAM, PIN- 781317

2: MOSTAFA ALI @ MUSTAFA ALI
S/O- LT. HUSSAIN ALI
R/O- PURAGAON
P.O. CHUKRUNGBARI
P.S. SORBHOG
DIST.- BARPETA
ASSAM
PIN- 781317

3: MUSLIM UDDIN
S/O- LT. EMAN ALI
R/O- PURAGAON
P.O. CHUKRUNGBARI
P.S. SORBHOG
DIST.- BARPETA
ASSAM
PIN- 781317

4: MUSLIM UDDIN KHA @ MACHLIM UDDIN
S/O- LT. MAHARUDDIN
R/O- PURAGAON
P.O. CHUKRUNGBARI
P.S. SORBHOG
DIST.- BARPETA
ASSAM
PIN- 781317

5: AKKAS ALI
S/O- SAMAD ALI
R/O- PURAGAON

P.O. CHUKRUNGBARI
P.S. SORBHOG
DIST.- BARPETA
ASSAM
PIN- 781317

6: ABBAS ALI
S/O- SAMAD ALI
R/O- PURAGAON
P.O. CHUKRUNGBARI
P.S. SORBHOG
DIST.- BARPETA
ASSAM
PIN- 78131

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. N N JHA

Advocate for the Respondent : PP, ASSAM

Linked Case : Bail Appln./3002/2022

FAIZUDDIN ALI @ FAIZUDDIN AND 2 ORS.
S/O- LATE MAHIRUDDIN

R/O- PURAGAON

P.O- CHUKRUNGBARI

P.S- SORBHOG

DIST- BARPETA
ASSAM
PIN-781317

2: SAHJAHAN ALI
S/O- MUSLIMUDDIN

R/O- PURAGAON

P.O- CHUKRUNGBARI

P.S- SORBHOG

DIST- BARPETA
ASSAM
PIN-781317

3: SAHANUR ALI
S/O- MUSLIMUDDIN

R/O- PURAGAON

P.O- CHUKRUNGBARI

P.S- SORBHOG

DIST- BARPETA
ASSAM
PIN-781317

REP. BY SAMIRON NESSA
W/O- SAHJAHAN ALI
AGE-36YRS
R/O- PURAGAON

P.O- CHUKRUNGBARI

P.S- SORBHOG

DIST- BARPETA
ASSAM
PIN-781317
VERSUS

THE STATE OF ASSAM
REP. BY PP
ASSAM

Advocate for : MR. N N JHA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

03.02.2023

1. Heard Mr. N.N. Jha, learned counsel appearing for the petitioners as well as Mr. M.P. Goswami, learned Addl. P.P. appearing for the State respondent.
2. This application under Section 439 Cr.P.C, is preferred by the petitioners, namely, Faizuddin Ali @ Faizuddin, Sahjahan Ali, Sahanur Ali, who are languishing in jail since 21.07.2022, in connection with PRC Case No. 1061/2022, under Sections 341/324/325/326/34 IPC and added Section 302 IPC arising out of Sorbhog P.S. Case No. 96/2022.
3. It is submitted on behalf of the petitioner that a clash between both the parties erupted and both parties' sustained injuries. It is submitted that the petitioner no. 4, Muslim Uddin Kha @ Machlim Uddin sustained grievous injuries, as a result of the incident. The injury report of the petitioners Muslim Uddin and Abdul Rahim has been annexed marked as Annexure-3 series and tagged along with this petition. As all the petitioners were injured and were undergoing treatment and they were not aware of this case. The charge-sheet was laid against them showing them absconders. It is submitted that the petitioners will co-operate with the trial. The petitioners are not responsible for the death of the victim Majnu Ali who succumbed to injuries as a result of the incident.
4. The learned Addl. P.P. has raised serious objections that there are cogent materials against the petitioners. The statement of the witnesses and the complainant clearly depicts that the petitioners are responsible for the death of the Majnu Ali and grievous injuries of the other injured person. The FIR was lodged on 15.07.2022 and finally charge-sheet has been laid against the petitioners on 13.09.2022.
5. I have considered the submissions at the Bar.
6. It is submitted on behalf of the petitioners that they have been languishing in the jail for

more than 160 days. The charge-sheet has been laid against them. The petitioner has pledged that they will abide by any conditions of bail imposed upon them. They are not flight risks as they are local residents. The petitioners are sole breadwinners of their families.

7. I have given my anxious consideration to the submissions at the Bar.

8. The petitioners have been languishing in jail for 160 days. The petitioners are a local residents.

9. Considering all aspects and in view of the foregoing discussions, the petitioners, namely, Faizuddin Ali @ Faizuddin, Sahjahan Ali, Sahanur Ali are to be enlarged on bail of Rs. 50,000/- each with a suitable surety each of like amount to the satisfaction of learned Judicial Magistrate First Class, at Barpeta

This petition stands disposed of.

JUDGE

Comparing Assistant