

GAHC010228782023



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

AB/3443/2023

NASIR UDDIN AND 8 ORS
S/O KISMAT ALI
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615

2: IBRAHIM ALI
S/O BASIR UDDIN
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615

3: BASIR UDDIN
S/O KISMAT ALI
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615

4: REJEK ALI
S/O LATE TUSOR ALI
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615

5: ABDUL MAZID
S/O REJEK ALI

**R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615**

**6: MEHER ALI
S/O NABAB ALI
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615**

**7: SELAMAT ALI
S/O MONIRUDDIN
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615**

**8: DILUWAR HUSSAIN @ DILOWAR HUSSAIN
S/O LATE TUSHAR ALI
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615**

**9: FULCHAN ALI
S/O LATE MONIRUDDIN
R/O VILL- NO. 2 KANDHBARI
P.S. MUKALMUA
DIST. NALBARI
ASSAM
MOBILE NO. 9859043615
VERSUS**

**THE STATE OF ASSAM
REP. BY THE PP
ASSAM**

**Advocate for : MR. A ALI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM**

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

ORDER

Date : 02.11.2023

Heard Mr. A Paramanik, learned counsel for the petitioners and Ms. A Begum, learned Addl. Public Prosecutor for the State respondent. Also heard Mr. T Ahmed, learned counsel for the informant.

This bail application under Section 438 of the Code of Criminal Procedure, 1973, has been filed by the petitioners, namely, **1.Nasir Uddin, 2. Ibrahim Ali, 3. Basir Uddin, 4. Rejek Ali, 5. Abdul Mazid, 6. Meher Ali, 7. Selamat Ali, 8. Diluwar Hussain @ Dulowar Hussain and 9. Fulchan Ali** for pre-arrest bail apprehending arrest in connection with **Mukalmua PS Case No. 503/2023** under Sections 143/147/148/447/323/325/307/427 of the of the Indian Penal Code, 1860.

The gist of the accusation against the present petitioners is that on 28.09.23, one Mr. Abdul Latif lodged an FIR before the Officer-In-Charge of Mukalmua Police Station, naming 11(eleven) numbers of accused persons in the FIR including the present petitioners, alleging *inter-alia*, that when the younger brother of the first informant was supervising the construction of 30 No. Model Govt. Anganwadi center situated at village No.2 Kandhbari, the accused persons armed with deadly weapons chased the younger brother of the first informant as well as the masons and the labourers who were engaged in the construction work and they also assaulted the younger brother of the first informant, namely, Lokman Ali with sharp weapon with an intention to kill him. It is also alleged in the FIR that younger brother of the first informant was admitted in the Mukalmua PHC in a critical condition and an amount of Rs.19,000/- was also missing from his pocket.

It is pertinent to mention herein that petitioner No. 8 Diluwar Hussain @ Dilowar Hussain

and Petitioner No. 9 Fulchan Ali were granted bail by this Court vide order, dated 06.10.2023 and it is submitted by the learned counsel for the petitioner that in pursuant to the directions of this Court, both the above named petitioners have appeared before the investigating officer and their statements have co-operated with the investigating officer.

The learned Addl.P.P. has also submitted that petitioner No. 8 Diluwar Hussain @ Dilowar Hussain and Petitioner No. 9 Fulchan Ali have appeared before the Investigating Officer and their statements under Section 161 CrPC has also been recorded by the Investigating Officer.

On the other hand, Mr. T Ahmed, learned counsel for the informant has raised objection to grant of anticipatory bail to the petitioners on the ground that prior to lodging of the FIR, they were directed to furnish bond under Section 107 CrPC and even after furnishing of the bond, the petitioners have tried again to obstruct the construction of Anganwadi Center on the land and have assaulted the victim and labourers and masons in the case.

The learned counsel for the informant has submitted that if the present petitioners are allowed to go on bail they would certainly threaten the witnesses and repeat the same offence.

I have considered the submissions made by the learned counsel for the petitioner as well as perused the case diary of Mukalmua PS Case No. 503/2023.

It appears from the case diary that the injured in this case namely, Lokman Ali has only suffered simple injury on his person. It also appears that two of the co-accused persons, namely, Ambor Ali and Miyachand Ali are already granted bail by this Court in Bail Application No. 3660/2023 today. Further, it also appears from the records that petitioner No. 8 Diluwar Hussain @ Dilowar Hussain and Petitioner No. 9 Fulchan Ali have complied with the direction of this court and have co-operated in investigation.

Therefore this, court considering the above facts is of the considered opinion that custodial interrogation of the petitioners may not be required for fair completion of the investigation.

In view of above, the interim pre-arrest bail granted to petitioner No. 8 Diluwar

Hussain @ Dilowar Hussain and Petitioner No. 9 Fulchan Ali vide order dated 06.10.2023 is hereby made absolute subject to the following conditions-

- (i) That the petitioner shall co-operate in investigation as and when required;
- (ii) That the petitioner 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 Court or to any police officer.

As regards the other petitioners, namely, **1.Nasir Uddin, 2. Ibrahim Ali, 3. Basir Uddin, 4. Rejek Ali, 5. Abdul Mazid, 6. Meher Ali, 7. Selamat Ali**, they shall appear before the Investigating Officer of Mukalmua P.S. case No. 503/2023 within 7 days from the date of this order and shall co-operate the investigation. If they do so, they shall be released on furnishing bail of Rs. 30,000/- with one surety of like amount to the satisfaction of the arresting authority ;.

(i) That the petitioners namely, **1.Nasir Uddin, 2. Ibrahim Ali, 3. Basir Uddin, 4. Rejek Ali, 5. Abdul Mazid, 6. Meher Ali, 7. Selamat Ali** shall appear before the Investigating Officer **every week for the next 4(for) weeks** and shall co-operate with the investigation till completion of the investigation.

(ii) That the petitioners, namely, **1.Nasir Uddin, 2. Ibrahim Ali, 3. Basir Uddin, 4. Rejek Ali, 5. Abdul Mazid, 6. Meher Ali, 7. Selamat Ali** shall not, directly or indirectly, make any inducement, threat or promise to the witnesses, victim or any other person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Investigating Officer

With the above directions, the pre-arrest bail application stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant