

GAHC010232282023



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

Case No. : Bail Appln./3726/2023

ABDUS SALAM MAZUMDER AND 8 ORS.
S/O LATE INNUS ALI MAZUMDER
VILL- RANGAUTI PART-I
P.S. AND DIST. HAILAKANDI

2: NURUL HOQUE LASKAR
S/OLATE MAYAB ALI LASKAR
VILL- DUDPUR
P.O.BALILURA
P.S. AND DIST. HAILAKANDI

3: KOUCHAR AHMED MAZUMDER @ KAWSAR AHMED NAZUMDER
S/O MOJOROF ALI MAZUMDER
VILL- NITYANANDPUR
PART-I
P.O. NITYANANDPUR
P.S. LALA
DIST. HAILAKANDI

4: UBAIDULLAH CHOUDHURY
S/OLATE KAMAL UDDIN CHOUDHURY
VILL- JAMIRA PART-IV
P.S. RAMNATHPUR
DIST. HAILAKANDI

5: MUZAKKIR HUSSAIN CHOUDHURY
S/OLATE MOHORAM ALI CHOUDHURY
VILL- SAIDPUR
P.O. SINGALA
KAIYA GRANT
P.S. LALA
DIST. HAILAKANDI

6: SORIF UDDIN BARBHUIYA

S/OLATE ABDUL KAYAM BARBHUIYA
VILL- DAKSHIN JASHNABAD PART-II
P.O. TANTOO
P.S.LALA
DIST. HAILAKANDI

7: ABU BAKKAR BARBHUIYA @ ABU BAKKAR LASKAR
S/O LATE ABDUL WAHID BARBHUIYA
VILL- BOLDABOLDI PART-II
P.S. RAMNATHPUR
DIST. HAILAKANDI

8: AZIR UDDIN LASKAR
S/O LATE MOKBUL ALI LASKAR
VILL- LAKSHINAGAR PART-II
P.S. LALA
DIST. HAILAKANDI

9: ASADULLA LASKAR
S/OLATE AJIJUR RAHMAN LASKAR
VILL- NUNAI KHAL R.A.
P.S. LALA
DIST. HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR. A H M R CHOUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

17.10.2023

Heard Mr. A.H.M.R. Choudhury, learned counsel for the accused persons; Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent; and Mr. A.K. Talukdar, learned counsel for the informant.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused persons namely, **Abdus Salam Mazumder; Nurul Hoque Laskar; Kouchar Ahmed Mazumder; Ubaidullah Choudhury; Muzakkir Hussain Choudhury; Sorif Uddin Barbhuiya; Abu Bakkar Barbhuiya; Azir Uddin Laskar; Asadulla Laskar**, who have been languishing in jail hazot since 13.09.2023, in connection with the **Hailakandi P.S. Case No. 225/2023**, under Sections 120(B)/ 420/ 466/ 468/ 471/ 472/ 474/ 34 of the IPC read with Section 5 of the Emblems and Names [Prevention of Improper Use] Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by Saidur Rahman Laskar, on 13.09.2023. The essence of allegations made in the FIR is that the accused and 17 others, without being competent to issue marriage document use to issue the same, by misleading the common people into the belief that they are competent to issue marriage document, despite there being compulsory requirement for registration of marriage and they use to issue the same violating the direction issued by the Circle Officer and the Deputy Commissioner of Hailakandi district, in respect of issuance of marriage document, which is contrary to the provision of Muslim Marriage and Divorce Act, 1935 and they neither the Government authorized nor the License holder, but they use to issue Muslim Marriage document without following specific guideline issued by this Court in Writ Petition No. 5122/2009.

4. Mr. Choudhury, learned counsel for the accused persons submits that the accused persons were arrested on 13.09.2023, and since then they have been languishing in jail hazot for last 36 days. Mr. Choudhury further submits that though they are not authorized to issue Muslim Marriage document, yet, they assist the registered Kazis to issue Muslim Marriage document and that

they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Baishya, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the I.O. has achieved substantial progress in investigation and their custodial detention is required in the interest of investigation and therefore, it is contended to dismiss the petition.

6. Whereas, Mr. Talukdar, learned counsel for the informant submits that the accused persons are not authorized to issue Muslim Marriage document, but they have been issuing fake Muslim Marriage document. Mr. Talukdar further submits that they are habituated to the same, as earlier occasion also, some cases were lodged against him and the accused persons used to threaten the informant to implicate him with the non-bailable offences relating to NDPS Act and for which the informant had lodged the complaint before the Superintendent of Police, Hailakandi.

7. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

8. It appears that the accused persons have been arrested in this case on 13.09.2023 and since then, they have been languishing in jail *hazot* for last 36 days. Further it appears from the case diary that the I.O. has achieved substantial progress in the investigation of the case and further custodial detention of the accused persons seems to be unwarranted here in this case and accordingly it is provided that on furnishing a bond of Rs. 50,000/- only each, with one surety of like amount to the satisfaction of the learned **Chief**

Judicial Magistrate, Hailakandi, the accused be enlarged on bail.

9. The above privilege is, however, subject to the following conditions:

[i] the accused persons shall refrain from issuing such Muslim Marriage document forthwith;

[ii] the accused persons shall appear before the IO as on when directed; and

[iii] the accused 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 himself from disclosing such facts to the Court or to any police officer.

10. In terms of above, this bail application stands disposed of.

11. The case diary be returned.

JUDGE

Comparing Assistant