

GAHC010243432023



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

Case No. : AB/3665/2023

AMIR UDDIN AND 14 ORS
S/O SAIMUDDIN,
RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA, DIST DARRANG,
ASSAM

2: RABIUL AWAL
S/O SAIMUDDIN

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

3: JALIL @ ABDUL JALIL
S/O SAIMUDDIN

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

4: SUKKUR ALI
S/O SAIMUDDIN

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

5: SAJIDA KHATUN
D/O SAIMUDDIN

W/O ABDULLAH
RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

6: SENA BHANU
W/O RABIUL AWAL
RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

7: JERIFUL KHATUN
W/O AMIR UDDIN
RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

8: HAZARAT ALI
S/O DAROG ALI

S/O SAIMUDDIN

RESIDENT OF VILLAGE JANGALPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

9: ABBAS ALI
S/O SEKANDAR ALI

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

10: REZZAK ALI
S/O SEKANDAR ALI

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

11: ABUL KALAM AZAD

S/O SEKANDAR ALI

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

12: SIDDIK ALI
S/O JINNAT ALI

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG

ASSAM

13: JINNAT ALI
S/O KHALIL SEIKH
RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

14: ANNAS ALI @ MIZANUR
S/O HAIDOR ALI

RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSAM

15: MUBARAK ALI
S/O JUBBAR ALI
RESIDENT OF VILLAGE KAMARPARA. PS KHARUPETIA
DIST DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. M A I HUSSAIN

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 22.11.2023

Heard Mr. M. A. I. Hussain, learned counsel for the petitioners. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the 15 nos. of petitioners, namely, 1. Amir Uddin, 2. Rabiul Awal,

3. Jalil @ Abdul Jalil, 4. Sukkur Ali, 5. Sajida Khatun, 6. Sena Bhanu, 7. Jeriful Khatun, 8. Hazarat Ali, 9. Abbas Ali, 10. Rezzak Ali, 11. Abul Kalam Azad, 12. Siddik Ali, 13. Jinnat Ali, 14. Annas Ali @ Mizanur and 15. Mubarak Ali, who are apprehending their arrest in connection with Kharupetia P.S. Case No. 182/2023 under Section 120(B)/148/448/325/427/354(B)/326/379 of the Indian Penal Code.

The accusation against the present petitioners is that one Mirjina Khatun on 14.09.2023 had lodged an FIR before the Office-in-Charge of Kharupetia Police Station, *inter alia*, alleging that the petitioners on 14.09.2023 at about 3.30 AM trespassed into the house of the informant and assaulted the husband of the informant and also tried to outrage the modesty of the elder sister of the informant.

Learned counsel for the petitioners has submitted that the petitioner No. 5, namely, Sajida Khatun had also lodged an FIR against the husband of the informant and few other co-accused persons and it is submitted that the dispute between the parties is with regard to use of way over plot of land which both the sides claims to be there and in connection with the said land dispute, some altercation happened on 14.09.2023.

It is further submitted by learned counsel for the petitioners that, in the meanwhile, by order dated 08.11.203, the petitioners Nos. 3. Jalil @ Abdul Jalil, 4. Sukkur Ali, 5. Sajida Khatun, 6. Sena Bhanu, 7. Jeriful Khatun were allowed to go on interim anticipatory bail by this Court and as per directions of this Court, the above named petitioners approached the Investigating Officer on three occasions. However, neither their statement was recorded by the Investigating Officer nor they were arrested by the Investigating Officer. It is further submitted by learned counsel for the petitioners that the petitioners are ready to cooperate with the Investigating Officer.

On the other hand, learned Additional Public Prosecutor has produced the case diary of Kharupetia P.S. Case No. 182/2023 and has submitted that the injury report of the injured victim is not available in the case diary.

Learned counsel for the petitioners has also submitted that an additional affidavit to bring on record the fact that the petitioners who were granted interim anticipatory bail by this Court, approached before the Investigating Officer and though their statement was not recorded neither they were arrested.

Considering the fact that the materials available on record reveals that there was an altercation between both the sides as regards land dispute and both the sides have filed cross cases against each other and the accused persons named in the FIR lodged by the petitioner No. 5, namely, Sajida Khatun have already been granted anticipatory bail, the interim anticipatory bail granted to petitioner Nos. 3, 4, 5, 6 and 7 is hereby made absolute and the other petitioners, namely, Amir Uddin, Rabiul Awal, Hazarat Ali, Abbas Ali, Abul Kalam Azad, Siddik Ali, Jinnat Ali, Annas Ali @ Mizanur and Mubarak Ali are hereby directed to appear before the Investigating Officer of Kharupetia P.S. Case No. 182/2023 within a period of ten days from the date of this order and cooperate in the investigation. If they do so, within the stipulated period of time, in the event of their arrest in connection with Kharupetia P.S. Case No. 182/2023, the above name petitioner shall be allowed to go on bail of Rs.30,000/- (Thirty Thousand) each with one surety of like amount to the satisfaction of arresting authority, subject to the condition that:-

1. They shall not directly or indirectly make any inducement, threat or promise to any persons who may be acquainted with the facts of this case so as to dissuade such persons from disclosing such facts

to the Investigating Officer or before the Court.

2. The petitioners shall cooperate with the Investigating Officer.

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

JUDGE

Comparing Assistant