

GAHC010243612022



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

Case No. : AB/3543/2022

FARAG ALI @ AHMED AND 9 ORS.
S/O LATE FARID ALI,
VILL.- UTTAR GALBERA,
P.S.- TAMULPUR,
DIST.- BARKSA (ASSAM).

2: SALAMUN KHAN
S/O CHAN MOHAMMAD

VILL.- UTTARGALBERA

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

3: SELIMA BEGUM
W/O MAHRUM ALI

VILL.- UTTAR GALBERA

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

4: SAHAB ALI
S/O LATE KHAIRAT ALI

VILL.- DAKHIN GALBERA

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

5: RAHUL ALI

S/O LATE KHAIRAT ALI

VILL.- DAKHIN GALBERA

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

6: MAINU BEGUM
W/O ABDUL ALI

VILL.- DAKHIN GALBERA

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

7: MD. RIJUL ALI
S/O MAKIB ALI

VILL.- UTTARGALBERA RANGAPANI

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

8: ABDUL JIYAR @ CHANA
S/O LATE RAHMAN ALI @ ABDUR

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

9: LUTFUR RAHMAN @ ANTU
S/O AZIZUR RAHMAN

VILL.- UTTAR GOLBERA

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM).

10: MAINUL ALI @ HAQUE
S/O LATE MAKIB ALI

VILL.- DAKHIN GOLBERA

P.S.- TAMULPUR

DIST.- BARKSA (ASSAM)

VERSUS

THE STATE OF ASSAM
REP. BY P.P.

Advocate for the Petitioner : MR S PAUL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 09-02-2023

1. Heard Mr. S. Paul, learned counsel for the petitioners namely, [1] Farag Ali @ Ahmed [2] Salamun Khan [3] Selima Begum [4] Sahab Ali [5] Rahul Ali [6] Mainu Begum [7] Rijul Ali [8] Abdul Jiyar @ Chana [9] Lutfur Rahman @ Antu [10] Mainul Ali @ Haque.

2. The petitioners have filed an application under Section 438 Cr.P.C. with prayer for pre-arrest bail as they are apprehending arrest in connection with the charge of the case being PRC P.S. Case No. 899/2022 under Sections 143/353/294/323/307 IPC corresponding to Tamulpur P.S. Case No. 556/2019.

3. I have considered the submissions at the Bar. It is submitted on behalf of the petitioners that an FIR has been lodged by the police and it is apparent that the FIR has been falsely lodged by the police against the petitioners who are innocent. It is also submitted that the petitioners will co-operate with the trial as they are local residents. The petitioner Nos. 3 and 6 are women and the petitioner Nos. 8 and 9 are not named in the FIR. As a result, the petitioners were not aware of the case pending against them and finally they were shown as

absconders in the charge-sheet.

4. The learned Addl. P.P. has raised objection stating that charge-sheet has been laid against the petitioners which clearly implicates that the petitioners were involved in the alleged case. The petitioners have been evading appearance continuously from the year 2019 till the year 2023. The order dated 14.11.2022 passed by the Judicial Magistrate, First Class, Baksa of Mushalpur clearly reflects that NBWA has been issued against the Mainul Ali @ Haque and his prayer cannot be considered through this petition. The application against the petitioners is that the petitioners along with some other villagers wrongfully confined Taijul Ali and when the police went to the rescue of Taizul Ali, the petitioners along with some other villagers assaulted the police personnel with dao, lathi, rod, axe etc. and as a result Mahadev Nath and Pramjit Kalita sustained grievous injuries. It is submitted on behalf of the petitioners that the injured persons sustained simple injuries.

5. I have considered the submissions at the Bar. Charge-sheet has indeed been laid against the petitioners, showing them as absconders. After due consideration of the submissions for the petitioner Nos. 8 and 9 who are not named in the FIR and the other petitioner Nos. 3 and 6, I deem it proper to allow their prayer for pre-arrest bail. The prayer of the other petitioners stands rejected.

6. In the event of the arrest of petitioner Nos. [3] Selima Begum [6] Mainu Begum [8] Abdul Jiyar @ Chana and [9] Lutfur Rahman @ Antu, they shall be enlarged on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the CJM, Baksa.

JUDGE

Comparing Assistant