

GAHC010265232022



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

Case No. : Bail Appln./3634/2022

ABDUL HANIF @ MD. ABDUL HANIF ALI
S/O- LATE BAHEJ ALI, R/O- VILL- JAMUNATARI,
P.S- GOSSAIGAON, DIST- KOKRAJHAR, BTC, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 03-02-2023

- 1.** Heard Mr. B.K. Mahajan, learned counsel for the petitioner and Mr. B. Sharma, learned Addl. P.P. for the State.
- 2.** The petitioner Shri Abdul Hanif @ Md. Abdul Hanif Ali has filed an application under Section 439 Cr.PC as he has been languishing in the jail since 10.12.2022 in connection with Gossaigaon P.S. Case No. 252/2020 under Sections

447/325/326/307/294/34 IPC, corresponding G.R. Case No. 351/2020.

3. I have considered the submissions at the Bar. The FIR unfolds that on 08.07.2020 at about 1 PM the informant Jahangir Alom was about to plough his land with his tractor No. 2194, when on the direction of Hanif Ali the accused persons named in the FIR jointly trespassed into the land of the informant with sharp and dangerous weapons. When the informant tried to resist, Nizam Ali assaulted him with a lathi. Then the younger brother of the informant Mijanur Rahman rushed to the spot to rescue the informant then Mostafa Ali assaulted him with a sword causing injuries. After they raised alarm, the informant's youngest brother Mijanur Rahman rushed to the spot and then again Mostafa Ali assaulted Nizam Ali with sword. Thereafter the neighbours Joydor Ali and Akbar Ali arrived to save the informant but the accused-persons assaulted them causing injuries on their body. After receiving information of the incident, the informant's sister Zannatun Begum and his aunt Moriom Bibi rushed to the spot and tried to save the injured persons, then the accused-person assaulted them and tried the outrage their modesty by ripping off their clothes.

4. It is submitted by the learned Addl. P.P. that Jahirul Islam, Mijanur Rahman and Akbar Ali sustained grievous injuries whereas Zannatun Begum sustained simple injury and Joydar Ali also sustained sharp cut injury.

5. It is submitted on behalf of the petitioners that there is a prevailing land dispute between the petitioner's family and the informant's family members. A civil case regarding correction of record has also been initiated being Misc. Case No. 10/2018-19 which was disposed of on 24.09.2019 and subsequently an appeal was filed before the Settlement Officer at Dhubri at Kokrajhar which was also disposed of. It is alleged that the informant and his family members with malafide, started to plough the disputed land forcefully. When the petitioner tried to prevent this, the informant and his family members assaulted the petitioner and the other accused-persons named in the FIR. A case has also been registered against the informant and his family members being

Gossaigaon P.S. Case No. 255/2020 under Sections 447/335/326/307 IPC. It is submitted that there is every possibility that the dispute will be settled. The petitioner has submitted that he is an indigenous person and he will not evade the trial. It is submitted that he will co-operate with the trial. Affidavits have been submitted on behalf of the petitioner that Nur Hussain, Jahangir Alom have already tried to settle the land dispute amicably.

5. I have perused the Case Diary. There are indeed cogent materials in the Case Diary against the petitioner. Several injured persons have sustained grave injuries. The petitioner has been languishing in the jail since 10.12.2022. Investigation has also progressed to a considerable extent. Further detention of the petitioner does not appear necessary for further progress of the investigation. I have also considered the submissions at the Bar. In view of my foregoing discussions, the petition is allowed.

6. The petitioner is enlarged on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the SDJM(M), Gossaigaon under the conditions that -

- i. the petitioner will refrain from such activities with which he is alleged;
- ii. the petitioner will co-operate with the remaining part of the investigation;
- iii. The petitioner will not exercise any threats to the witnesses; and
- iv. the petitioner will not leave the jurisdiction of the Court without prior permission till completion of the investigation.

Send back the Case Diary.

JUDGE

Comparing Assistant