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

Case No. : Bail Appln./649/2024

MAKBUL HUSSAIN AND 5 ORS.

S/O ABDUL KHALEK

R/O PUB LORIKUKH

P.S. RUPAHIHAT

DIST. NAGAON, ASSAM

2: MUKSHIDUL HOQUE

S/O JOYNAL ABDIN

R/O PUB LORIKUKH

P.S. RUPAHIHAT

DIST. NAGAON

ASSAM

3: NURUL ISLAM

S/O LT. MUSHRAB ALI

R/O PUB LORIKUKH

P.S. RUPAHIHAT

DIST. NAGAON

ASSAM

4: JAYNAL ABDIN

S/O LATE MANCHUR ALI

R/OPUB LORIKUKH

P.S. RUPAHIHAT

DIST. NAGAON

ASSAM

5: MAJADA KHATUN

W/O SAIDUL ISLAM

R/O PUB LORIKUKH

P.S. RUPAHIHAT

DIST. NAGAON

ASSAM

6: SAIFUL ISLAM
S/O LATE MOSRAB ALI
R/O PUB LORIKUKH
P.S. RUPAHIHAT
DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

14.03.2024

Heard Mr. S.M. Abdullah P, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Addl. P.P, Assam for the State respondent.

This is an application under Section 439 of the Cr.PC, 1973 for release on bail of the petitioners, i.e., Makbul Hussain, Mukshidul Hoque, Nurul Islam, Jaynal Abdin, Majada Khatun and Saiful Islam, who were arrested on 29.01.2024 in connection with Rupahihat P.S. Case No. 15/2024 registered under Sections 147/148/149/341/325/307/302/506 of IPC.

The case of the prosecution is that on 28.01.2024, an FIR has been lodged alleging inter alia that on 27.01.2024 at around 3:00 PM in the day time, an altercation took place between the informant's father and the accused

persons regarding distribution of certificate of Jon Junali Women Self Help Group. Thereafter, approximately one and half hours later, the accused persons equipped with sharp weapons, lathi, dao in their hands came to the govt. road in front of his house and assaulted his father with lathi, dao as his father was alone and threw him on the ground. As a result, his father sustained grievous injury and ultimately succumbed to dead.

Mr. S.M. Abdullah P, learned counsel for the petitioners submits that the petitioners are no way involved in the case as stated in the FIR and that the petitioners are the neighbours of the informant and on 27.01.2024 in the afternoon, they heard some hue and cry on the roadside near the house of the informant and after hearing the said hue and cry, the petitioners alongwith other villagers came out and went near the place of occurrence and since they were present at the place of occurrence, they were arrested.

Mr. P. Borthakur, learned Addl. P.P on the other hand strongly opposes the prayer for bail. He submits that the I.O has collected statements from witnesses who have stated that the present petitioners were present at the place of occurrence. He further submits that there are materials available on record which indicates that there was a scuffle between the informant and the accused group.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears that though there are materials available on record to show that the petitioners were present at the place of occurrence, however, there are

no materials attributing specific role against the petitioners. It further appears that the petitioners have been languishing in jail since last 46 days.

Considering the length of detention, this Court is of the considered view that further detention of the petitioners may not be justified.

Accordingly, the petitioners named above is allowed to go on bail in connection with the above noted case with a bail bond of Rs. 30,000/- each with one surety of like amount to the satisfaction of the learned SDJM, Kaliabor, Nagaon, subject to the following conditions:-

- (i) That the petitioners shall co-operate with the investigation.
- (ii) That the petitioners 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 them from disclosing such facts to the Court or to any Police Officer; and
- (iii) That the petitioners shall refrain from committing any similar offences in future of which they are accused or suspected of commission.

With the above observation and direction, the Bail Application stands disposed of.

JUDGE

Comparing Assistant