

GAHC010235812022



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

Bail Appln./1583/2023

ABINASH BORAH AND 6 ORS
S/O DILIP KR. BORAH

R/O CHENYALI GAON
KENDUGURI
P.S. JORHAT

P.O. CHENYALI
DIST. JORHAT
IN THE STATE OF ASSAM

PIN-785001
INDIA

2: SRI MONTU DA @ BONGALI
S/O LATE BOGAI DAS
R/O ROYAL ROAD
WARD NO. 2

P.S. JORHAT

P.O. JORHAT IN THE STATE OF ASSAM

PIN-785001
INDIA

3: SRI HORULORA DAS @ BIHYATI
S/O SRI ATUL DAS
R/O ROYAL ROAD
WARD NO. 2

P.S. JORHAT

P.O. JORHAT

IN THE STATE OF ASSAM
PIN-785001
INDIA

4: SRI JITAN DAS @ TIKIRA DAS
S/O ROYAL ROAD
WARD NO. 2
P.S. JORHAT
P.O. CHENYALI
DIST. JORHAT

IN THE STATE OF ASSAM
PIN-785001
INIDA

5: SRI DEHA DAS @ TIKY
S/O LATE LAKHESWAR DAS
R/O ROYAL ROAD
WARD NO. 2

P.S. JORHAT

P.O. CHENYALI
DIST. JORHAT

IN THE STATE OF ASSAM
PIN-785001
INDIA

6: SRI CHIRANJIT DAS @ KALIA
S/O SRI AJIT DAS
R/O ROYAL ROAD

WARD NO. 2

P.S. JORHAT
DIST. JORHAT

IN THE STATE OF ASSAM
PIN-785001. INDIA

7: SRI SUSANTA SARMAH @ KANKAN
S/O DIGANTA SARMAH
R/O KARUKATALI
BALIGAO

P.S. JORHAT
P.O. BALIGAON

DIST. JORHAT

IN THE STATE OF ASSAM
PIN-785001
INDIA.
VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MS M DAS
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

30.01.2024

Heard Ms. M. Das, Legal Aid Counsel appearing for the petitioners. Also heard Mr. D. Das, learned Addl. Public Prosecutor, appearing for the State of Assam.

This is an application under Section 439 of the Code of Criminal Procedure, 1973 for granting of regular bail to the accused / petitioners, namely, (i) Shri Abinash Borah (ii) Shri Montu Da @ Bongali and (iii) Shri Horulora Das @ Bihyati (iv) Shri Jitan Das @ Tikira Das, (v) Shri Deha Das @ Tiky, (vi) Shri Chiranjit Das @ Kalia who were all arrested on 30.11.2021 and (vii) Shri Susanta Sarmah @ Kankan who was arrested on 07.12.2021 in connection with Sessions

Case No. 32(J-J)/2022 registered under Section 147/148/302/307/325/326/341 read with Section 34 of the IPC.

The case of the prosecution in brief is that on 29.11.2021, the informant lodged an F.I.R. before the Officer-in-Charge of Jorhat Police Station alleging *inter alia* that the younger brother of the informant, namely, Animesh Bhuyan along with his two friends, namely, Mridusmanta Baruah and Pranay Jyoti Dutta came to Jorhat in a Tata Ace vehicle for purchasing some articles from Jorhat. They parked their vehicle in front of Truck Owners Association at around 1 P.M. and got down. At that time, they noticed one two wheeler rider (bearing Registration No. AS-03-AD-6327) falling on the road. They went for help but the rider started a hot altercation with them and was about to beat them. In the meantime, another stranger came and joined him. He started shouting that his uncle was beaten and thereafter started beating informant's brother and his friends repeatedly and thereby conspired and provoked others to attack his brother and the others with stones, sticks, blunt objects etc. resulting in injury to the trio. As a result Animesh Bhuyan succumbed to his injury at JMCH and Mridusmanta Boruah and Pranay Jyoti Dutta sustained injuries and admitted at JMCH. Later on the complainant came to know that the two wheeler rider was Shri Mohan Das and the boys who provoked others to beat his brother resulting death are his sons Akoni Das and Kola Lora and hence the case.

Ms. M. Das, Legal Aid Counsel for the petitioners submits that after completion of investigation of the instant case, the Investigating Agency has filed Charge Sheet and pursuant to which the trial has commenced before the learned Court of Sessions Judge, Jorhat. He further submits that there are about 94 witnesses and out of which 63 has already been examined. He further

submits that the accused petitioner has been languishing in jail since last 2 years 2months.

Mr. D. Das, learned Addl. Public Prosecutor, Assam on the other hand opposes the prayer of the bail. He submits that out of the statements recorded, there are also statements of eye witnesses who have implicated the accused petitioner.

I have heard the submissions made at the bar and have perused the materials available on record. Undoubtedly, the offence is of serious and grave nature. However, it appears that the trial is going on and there are a huge number of witnesses and a voluminous numbers of documents and within a period of last 1½ year, only 63 witnesses have been examined. It appears that the trial is likely to take some time.

Considering the length of detention, this Court is of the opinion that there is no justification in keeping the petitioners in detention, if they otherwise cooperate with the trial.

For the aforesaid reasons, the petitioners, namely, (i) Shri Abinash Borah (ii) Shri Montu Da @ Bongali and (iii) Shri Horulora Das @ Bihyati (iv) Shri Jitan Das @ Tikira Das, (v) Shri Deha Das @ Tiky, (vi) Shri Chiranjit Das @ Kalia and (vii) Shri Susanta Sarmah @ Kankan are allowed to go on bail of Rs. 50,000/- (Rupees Fifty thousand) with one surety of like amount to the satisfaction of learned Sessions Judge, Jorhat subject to the following conditions.

- (i) That the accused petitioners shall regularly appear

before the Trial Court on all dates to be fixed from time to time till the case is disposed of and in case of non-appearance, the bail granted shall stand automatically cancelled.

(ii) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case so as to dissuade such person from disclosing such facts to the Court or to the any Police Officer.

With the above observation, this bail application is disposed of.

JUDGE

Comparing Assistant