

GAHC010099442024



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

Case No. : AB/1290/2024

JOHIR UDDIN AND 6 ORS.
S/O LT. MOKSED ALI
R/O SAGUNMARI PT.IV
P.O. AND P.S. BILASIPARA
DIST. DHUBRI, ASSAM

2: NISHAN ALI
S/O SARBES ALI @ DARABESH ALI
R/O SAGUNMARI PT.IV

P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM

3: MONOWAR HUSSAIN
S/O ABDUL GOFUR
R/O SAGUNMARI PT.IV

P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM

4: AGBOR ALI
S/O KURAN ALI
R/O SAGUNAMRI PT. IV
P.O. AND P.S. BILASIPARA
DIST. DHUBRI
ASSAM

5: HAMID ALI @ ABDUL HAMID SK.
S/OLT. KADER BOXO SK.
R/O SAGUNMARI PT. IV
P.O. AND P.S. BILASIPARA

DIST. DHUBRI
ASSAM

6: JANIK ALI @ HAZRAT ALI
S/O JOHIR UDDIN
R/O SAGUNMARI PT. IV
P.O. AND P.S. BILASIPARA

DIST. DHUBRI
ASSAM

7: JAKIR ALI @ JAKIR HUSSAIN
S/O JOHIR UDDIN
R/O SAGUNMARI PT. IV
P.O. AND P.S. BILASIPARA

DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR R A AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

10.06.2024

1. Heard learned counsel Mr. M. Ahmed for the petitioners, namely (i) Johir Uddin, (ii) Nishan Ali, (iii) Monowar Hussain, (iv) Agbor Ali, and (v) Hamid Ali.
2. This application has been filed by the petitioner under Section 438

of the Cr.PC with prayer for bail as they are apprehending arrest in connection with Bilasipara P.S. Case No. 109/2024 under Sections 120(B)/302/325/34 of the IPC.

3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State and learned counsel Mr. M. Hussain for the informant.

4. The learned counsel for the informant has raised serious objection stating that the petitioner and his co-accused are deeply involved in this incident and they have already admitted about the prevailing animosity between them.

5. The FIR unfolds that the accused persons named in the FIR, including the petitioners, surrounded and obstructed Asuruddin Sheikh at Sagunmari Part-IV and assaulted and killed him on 01.05.2024 at about 9 p.m. After killing him, the accused person flung his body into the water ditch near the house of the Asuruddin Sheikh.

6. A land dispute was prevalent between the petitioners' and the deceased. The accused persons and the petitioners have earlier threatened the deceased with dire consequences. This impelled the complainant to lodge an FIR.

7. It is further submitted on behalf of the petitioner that the deceased Asuruddin Sheikh and the daughter-in-law of Fazar Ali had an illicit love affair. When this affair came to the notice of Fazar Ali (uncle of informant), then a meeting was called regarding their illicit relation at Fazar Ali's house where the deceased was beaten severely. Accordingly, next evening, the

deceased went to the mama bazaar for some medicines and returned back at night. Thereafter, he was sleeping but suddenly, he was missing at night and on the following morning, he was found dead near the ditch.

8. I have considered the submissions at the Bar with circumspection.

9. The learned counsel for the informant has submitted that the petitioners have already admitted through their bail petition about the prevailing animosity between them.

10. A scrutiny of the Case Diary reveals strong suspicion against the petitioners.

11. Investigation is still under progress. At this juncture, there appears to be no justified ground to extend the privilege of the petitioners.

12. I have also considered the magnitude of the offence and the role attributed to the petitioners.

13. Petition stands rejected at this stage.

14. Send back the Case Diary.

JUDGE

Comparing Assistant