

GAHC010100652024



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

Case No. : AB/1319/2024

SAHED ALI AND 4 ORS.
S/O LT SAHA ALOM, R/O 2 NO. PUNIA, P.S.-KHARUPETIA, DIST-DARRANG,
ASSAM

2: SAMAD ALI
S/O LT SAHA ALOM
R/O 2 NO. PUNIA
P.S.-KHARUPETIA
DIST-DARRANG
ASSAM

3: KHALILUR RAHMAN
S/O LT SAHA ALOM
R/O 2 NO. PUNIA
P.S.-KHARUPETIA
DIST-DARRANG
ASSAM

4: AHEDUR ZAMAN
S/O LT SAHA ALOM
R/O 2 NO. PUNIA
P.S.-KHARUPETIA
DIST-DARRANG
ASSAM

5: TOTA MIYA
S/O LT SAHA ALOM
R/O 2 NO. PUNIA
P.S.-KHARUPETIA
DIST-DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

21.06.2024

1. Heard learned counsel Mr. M. Ahmed for the petitioners, namely (i) Sahed Ali, (ii) Samad Ali, (iii) Khaliliur Rahman, (iv) Ahedur Zaman, and (v) Tota Miya.
2. This application has been filed by the petitioners under Section 438 of the Cr.PC with prayer for pre-arrest bail in connection with Kharupetia P.S. Case No. 45/2024 registered under Section 448/427/326/436/34 of the IPC.
3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for the respondent State and also heard Mr. S. Islam, learned counsel for the informant.
4. The allegation against the petitioners is that on 25.03.2024, the petitioners forcibly constructed a house with tin roof in the court yard of the informant's house but the informant did not resist. On 26.03.2024, at about 7.30 p.m., when Mahiram Nessa and Rousanara Begum was alone at home, the petitioners armed with dao trespassed into the informant's 3 wooden and tin houses and set ablaze the houses. When Maniram Nessa and Rousanara Begum tried to resist, the petitioners assaulted them with dao and caused grievous injuries on the head and other parts of their body. The informant i.e., the husband of the victim Rousanara Begum lodged an FIR regarding this incident.

5. It is also further submitted that the articles like important bank documents and other documents could not be recovered as their house was set ablaze and an amount of Rs. 3 (three) lacs taken as loan from self help group was also reduced to ashes. Both the injured women were taken to Kharupetia C.H.C. and the FIR had to be lodged on 27.03.2024. It is submitted on behalf of the petitioners that the informant and his family members had already encroached into the land of the petitioners and they were making preparations to construct an IAY house and a false case has been slammed against the petitioners.
6. It is further submitted that the informant set ablaze his own house to rope in the petitioners with a false case.
7. I have considered the submissions at the Bar with circumspection.
8. The learned Additional Public Prosecutor and learned counsel for the informant had raised serious objections.
9. It is submitted that the Case Diary reveals that the victims, Maniram Nessa and Rousanara Begum have sustained grievous injuries on their head with sharp weapons.
10. I have scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioners.
11. I have considered the magnitude of the offence and the role attributed to the petitioners.
12. The offence under which the petitioners are booked does not entitle them to pre-arrest bail.
13. In view of my foregoing discussions, petition for pre-arrest bail is rejected at this juncture.
14. Send back the Case Diary.

JUDGE

Comparing Assistant