

GAHC010110312024



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

Case No. : AB/1455/2024

WAIZ UDDIN AND 9 ORS.
S/O LT. SHUKUR MAMUD, R/O LAILURI, P.S.-RUPAHIHAT, DIST-NAGAON,
ASSAM

2: NOOR UDDIN
S/O LT. SHUKUR MAMUD
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

3: ATABUR RAHMAN
S/O MUKLESH UDDIN
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

4: HARUN RASHID
S/O LT. SHUKUR MAMUD
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

5: MD. FAKAR UDDIN
S/O LT. SHUKUR MAMUD
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

6: NOOR MOHAMMAD
S/O LT. ABDUL MOTALIB

R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

7: ALI AKBAR
S/O LT. RAIS ALI
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

8: RAJIBUR RAHMAN
S/O MUKLESH UDDIN
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

9: HABIBUR RAHMAN
S/O ISMAIL HUSSAIN
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSAM

10: ALIMUL HOQUE
S/O LT. RAIS ALI
R/O LAILURI
P.S.-RUPAHIHAT
DIST-NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 26-06-2024

Heard Mr. S.M. Abdullah P, learned counsel for the petitioners 1. Waiz Uddin, 2. Noor Uddin, 3. Atabur Rahman, 4. Harun Rashid, 5. Md. Fakar Uddin, 6. Noor Mohammad, 7. Ali Akbar, 8. Rajibur Rahman and 9. Habibur Rahman

2. The petitioners have filed this application under Section 438 of the Code of Criminal Procedure, 1973 with prayer for pre-arrest bail as they are apprehending arrest in connection with Rupahihat Police Station Case No. 116/2024 under Sections 147/148/149/447/325/307/436/379 of the Indian Penal Code, 1860 (IPC for short).

3. Heard Mr. D.P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State, who has submitted that Case Diary is received without the injury report.

4. It is submitted on behalf of the petitioners that no specific allegation has leveled against the petitioners. It has been alleged in the FIR in an omnibus manner that the petitioners had attacked the informant and his family members with sharp weapons.

5. The learned counsel for the petitioners has also prayed for bail on the ground of parity as the co-accused have already been enlarged on bail vide order dated 29.05.2024 in Bail Application. No. 1531/2024

6. I have considered the submissions at the bar with circumspection.

7. The FIR unfolds that on 19.05.2024 at around 12.30 AM, the petitioner along with other hired henchmen trespassed into the land of the informant with

an intention to encroach the land. They were armed with machetes, sticks and various sharp weapons and began constructing a hut on their property. When the informant and family member stopped the petitioners, they attacked the informant with an intention to commit murder. It is also submitted on behalf of the petitioners that Section 436 of the IPC is not attracted as it is apparent from the FIR that a cowshed has been set ablaze.

8. I have considered the submissions that the petitioners are willing to cooperate with the investigation. I have scrutinized the Case Diary. Investigation has progressed to a considerable extent. The petitioners, who are on interim bail, have cooperated with the investigation and they have not violated any bail conditions.

9. In view of my foregoing discussions, the interim order dated 04.06.2024 is hereby made absolute.

10. Send back the Case Diary.

JUDGE

Comparing Assistant