

GAHC010128132024



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

Case No. : AB/1671/2024

EUNUS ALI AND 7 ORS
S/O LATE ABDUR RAHMAN, R/O VILL- BAMUNPARA, P.S.-MANKACHAR,
DIST-SOUTH SALMARA MANKACHAR, ASSAM

2: NUR HUSSAIN
S/O EUNUS ALI
R/O VILL- BAMUNPARA
P.S.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

3: NUR KALAM
S/O EUNUS ALI
R/O VILL- BAMUNPARA
P.S.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

4: SOMER ALI
S/O LATE HASU SK
R/O VILL- BAMUNPARA
P.S.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

5: AKHIRUL ISLAM
S/O SOMER ALI
R/O VILL- BAMUNPARA
P.S.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

6: SAMSUL HOQUE
S/O ANOR ALI

R/O VILL- BAMUNPARA
P.S.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

7: NURIMA KHATUN
W/O EUNUS ALI
R/O VILL- BAMUNPARA
P.S.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM

8: AZUFA KHATUN
W/O NUR HUSSAIN
R/O VILL- BAMUNPARA
P.S.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 15-07-2024

Heard Mr. N. Uddin, learned counsel for the petitioners namely *1. Eunus Ali, 2. Nur Hussain, 3. Nur Kalam, 4. Somer Ali, 5. Akhirul Islam, 6. Samsul Hoque, 7. Nurima Khatun and 8. Azufa Khatun.*

2. The petitioners have filed this application under Section 438 of the Code of

Criminal Procedure, 1973 (CrPC for short) with prayer for pre-arrest bail as they are apprehending arrest in connection with Mankachar Police Station Case No. 72/2024 under Sections 148/149/341/307/325 of the Indian Penal Code, 1860.

3. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor, Assam for the respondent State and Mr. R. Islam, learned counsel for the informant.

4. The learned Additional Public Prosecutor has raised serious objection stating that the injured victims Sobed Ali and Sanowar Ali have sustained injuries all over their body. The injuries are simple in nature but this is a case under Section 307 of the IPC as Sanowar Ali has sustained a bleeding injury on the vital part of his body i.e. on his head.

5. The learned counsel for the informant has also raised objection against the bail petition.

6. The allegation against the petitioners is that they assaulted Sanowar Ali and Sobed Ali. They were armed with dangerous weapons like iron rod, lathi etc. Blood stained lungi and genji were also seized in connection with this case. The petitioners are booked under a serious offence. It is also submitted at the bar that the allegation is that the petitioners, more particularly, Eunus Ali dealt blows with iron rod on Sanowar Ali's head causing bleeding injury on his head.

7. It is submitted on behalf of the petitioners that the injured persons and their family members had attacked the petitioners on a land dispute and there was a scuffle and the injured persons Sanowar Ali and Sobed Ali had sustained injuries. The injuries are simple in nature and the petitioners deserve bail. This is not a case under Section 307 of the IPC.

8. I have considered the submissions at the bar with circumspection. I have also perused the case Diary. Indeed there are incriminating materials basically

against Eunus Ali. There are also incriminating materials against all the petitioners but I am constrained to reject the bail petition of Eunus Ali. The merits of this case are not brought to the fore as investigation is still under progress.

9. After considering the submissions at the bar and considering all aspects, the anticipatory bail petition of Eunus Ali is rejected at this stage.

10. However, in the event of the arrest of the petitioner Nos. 2 to 8 namely 2. *Nur Hussain*, 3. *Nur Kalam*, 4. *Somer Ali*, 5. *Akhirul Islam*, 6. *Samsul Hoque*, 7. *Nurima Khatun* and 8. *Azufa Khatun*, they are enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty Thousand) each with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that:

i) *The petitioners shall refrain from such activities with which they are alleged and maintain the peace.*

ii) *The petitioners shall cooperate with the remaining part of the investigation.*

iii) *The petitioners shall not exercise threats to the witnesses and the petitioners shall not leave the jurisdiction of the Court without prior permission.*

11. On breach of any of the bail conditions, bail order shall stand cancelled automatically.

12. In the above terms this Anticipatory Bail application stands disposed of.

13. Send back the Case Diary.

JUDGE

Comparing Assistant