

GAHC010141892024



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

Case No. : AB/1819/2024

HUSSAIN ALI SIKDER AND 6 ORS.
SON OF LATE AMZAD ALI SIKDER
R/O VILL- PASCHIM KATHURI, P.O. RAJMITA, P.S. LAKHIPUR, DIST.
GOALPARA, ASSAM
PRESENTLY RESIDING AT VILL- MANASHPARA, WARD NO. 1, LAKHIPUR
TOWN, P.O. AND P.S. LAKHIPUR, DIST. GOALPARA, ASSAM

2: ALIUDDIN SIKDER
S/O LATE AMZAD ALI SIKDER
R/O VILL- PASCHIM KATHURI
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PRESENTLY RESIDING AT VILL- MANASHPARA
WARD NO. 1
LAKHIPUR TOWN
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA
ASSAM

3: NUR HUSSAIN SIKDER
S/O LATE AMZAD ALI SIKDER
R/O VILL- PASCHIM KATHURI
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PRESENTLY RESIDING AT VILL- MANASHPARA
WARD NO. 1
LAKHIPUR TOWN
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA
ASSAM

4: JULHAS ALOM SIKDER
S/O ALIMUDDIN SIKDER
R/O VILL- PASCHIM KATHURI
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PRESENTLY RESIDING AT VILL- MANASHPARA
WARD NO. 1
LAKHIPUR TOWN
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA
ASSAM

5: MONZUR ALOM SIKDER
S/O ALIMUDDIN SIKDER
R/O VILL- PASCHIM KATHURI
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PRESENTLY RESIDING AT VILL- MANASHPARA
WARD NO. 1
LAKHIPUR TOWN
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA
ASSAM

6: ROBIUL AWAL @ RAJU SIKDER
S/O NUR ALI SIKDER
R/O VILL- PASCHIM KATHURI
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PRESENTLY RESIDING AT VILL- MANASHPARA
WARD NO. 1
LAKHIPUR TOWN
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA
ASSAM

7: ABUL KASHEM SIKDER @ KASEM ALI
S/O HUSSAIN ALI SIKDER.
R/O VILL- PASCHIM KATHURI
P.O. RAJMITA
P.S. LAKHIPUR

DIST. GOALPARA
ASSAM
PRESENTLY RESIDING AT VILL- MANASHPARA
WARD NO. 1
LAKHIPUR TOWN
P.O. AND P.S. LAKHIPUR
DIST. GOALPARA
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 29.07.2024

Heard Mr. AM Bora, learned senior counsel, assisted by Mr. B.A. Choudhury, learned counsel for the petitioners. Also heard Mr. KK Parasar, learned Addl. Public Prosecutor, Assam, appearing on behalf of the State respondent and Mr. A. Ahmed, learned counsel for the informant.

This is an application under Section 482 of BNSS, 2023, seeking pre-arrest bail by the petitioners namely **(1) Hussain Ali Sikder, (2) Alimuddin Sikdar, (3) Nur Hussain Sikdar, (4) Julhas Alom Sikdar, (5) Monzur Alom Sikdar, (6) Rabiul Awal @ Raju Sikdar and (7) Abul Kashem Sikdar @ Kasem Ali Sikdar** in connection Lakhipur P.S. Case No. 185/2024

(Corresponding to G.R. Case No.688/2024) under Sections 189(2), 126/ 118(1)/ 109/ 351 of BNS, 2023.

Case diary is received and perused.

Heard both sides.

It is submitted by Mr. Bora, the learned senior counsel for the petitioners that the petitioners are innocent and they are in no way connected with the alleged offence. He further submitted that there was a dispute between the parties regarding provincialisation of a school wherein the petitioner Nos. 1, 2 and 3 are working as teachers and petitioner No. 6 is an employee of the College and petitioner Nos. 4 and 5 are businessmen. No such incident happened as alleged in the FIR. However, the petitioners tried to compromise the matter but the informant has lodged the FIR. He further submits that the petitioners are ready and willing to cooperate with the investigation of the case if they are granted with the privilege of pre-arrest bail.

In this context, Mr. Parasar, learned Addl. PP has submitted that from the medical report available in the case diary, it reveals that the victim sustained grievous injury on his head with sharp weapon and there are allegation against the present petitioners. But, it is not specific as to who assaulted the victim though as per witness, the petitioners attacked the victim with fist and blows. He further submits that there is no mention as to who attack on the victim with sharp object. He further submits that considering the injury sustained by the victim, custodial interrogation is warranted in this case.

Mr. Ahmed, learned counsel for the informant submitted that there is contradictory statement made in their petition as to who started altercation first and the victim sustained grievous injury with sharp weapon and he submitted

that it is not a fit case to extend the benefit of pre-arrest bail to the petitioners.

After hearing the submission of the learned counsel for the parties, I have perused the case diary and it is seen that the petitioners are present in the altercation, but there is no specific allegation against the present petitioners regarding attack of the victim with sharp weapons. Considering the materials available in the case diary, I find that custodial interrogation in this case may not be required and it is a fit case to extend the benefit of pre-arrest bail to the petitioners.

Accordingly, it is provided that in the event of arrest of the petitioners in connection with the aforementioned case, they shall be released on pre-arrest bail on furnishing a bond of Rs. 20,000/-each with a suitable surety of like amount to the satisfaction of the arresting authority, subject to the following conditions that:-

- (1) the petitioners shall appear before the I.O. within 7 days from today from today.
- (2) the petitioners shall make themselves available for interrogation by the Investigating Officer as and when required;
- (3) the petitioners shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him/ her from disclosing such facts to the Court or any other police officer, and
- (4) the petitioners shall not hamper the investigation or temper with the evidence of the case.

The bail application is disposed of.

Return the case diary.

JUDGE

Comparing Assistant