

GAHC010150552024



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

Case No. : AB/1948/2024

ABDUL KADER ALI SHEIKH
S/O BUJUR ALI SHEIKH,
VILLAGE PALANGSUGURI, PO JOYPUR, PS AMGURI, DIST CHIRANG,
ASSAM 783393

2: NAIJAM UDDIN @ NIJAM UDDIN @ NAJIM UDDIN
S/O LAL BHANU BEWA

RESIDENT OF VILLAGE NO. 1 CHIKAPARA
PO JOYPUR
PS AMGURI
DIST CHIRANG
ASSAM 783393

3: ABDUL JUBBAR SHEIKH
S/O LATE KAYEN SHEIKH

RESIDENT OF VILLAGE NO. 1 CHIKAPARA
PO JOYPUR
PS AMGURI
DIST CHIRANG
ASSAM 783393

4: ASIR UDDIN
S/O AJMOT ALI

RESIDENT OF VILLAGE 11 POLANGSHUGURI
PO JOYPUR
PS AMGURI
DIST CHIRANG
ASSAM 783393

5: MUNURUDDIN SHEIKH
S/O LATE SOFAR ALI SHEIKH

RESIDENT OF VILLAGE PACHIM GUMARGAON PS AMGURI
DIST CHIRANG
ASSAM 783393

6: SADDAM HUSSAIN
S/O KAPILUDDIN UDDIN

RESIDENT OF MANIKPUR
PO JOYPUR
PS AMGURI
DIST CHIRANG ASSA 783393

7: NABIR HUSSAIN MOLLA
S/O NAYJAM GUMARGAON
DIST CHIRANG
ASSAM 783393

8: SAMIR ALI @ SAMER ALI
S/O MAGAR ALI
RESIDENT OF VILLAGE NO. 1 CHIKAPARA
PO JOYPUR
PS AMGURI
DIST CHIRANG
ASSAM 78339

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. J ABBAS, I HOQUE, MR. D GOGOI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
O R D E R

07.08.2024

Heard Mr. J. Abbas, learned counsel for the petitioners, namely, Abdul

Kader Ali Sheikh, Naijam Uddin @ Nijam Uddin @ Najim Uddin, Abdul Jubbar Sheikh, Asir Uddin, Munuruddin Sheikh, Saddam Hussain, Nabir Hussain Molla and Samir Ali @ Samer Ali, who have filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail, as they are apprehending arrest in connection with Kajalgaon Police Station Case No.77/2024 under Sections 303(2) and 3(5) of the Bharatiya Nyaya Sanhita, (B.N.S), 2023.

2. Heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State.

3. The allegation is that the petitioners were involved in dismantling a bridge and collecting the iron of the bridge.

4. The learned Additional Public Prosecutor, Assam has raised serious objection stating that the petitioners are not entitled to pre-arrest bail, as they have destroyed a public property.

5. It is submitted on behalf of the petitioners that the petitioner no. 1 is the owner of a scrap-yard and under his direction the petitioner nos. 2 to 7, who are labourers have removed the iron from the bridge. The petitioner nos. 2 to 7 are the labourers and they are the sole breadwinner of their family. Their family will suffer immensely if they are forwarded to custody.

6. I have scrutinised the case diary. Indeed there are incriminating materials in the case diary against the petitioners. After considering the submissions at the Bar, it is held that the petitioner no.1, namely, Abdul Kader Ali Sheikh and the petitioner no.8, namely, Samir Ali @ Samer Ali are not entitled to anticipatory bail at this juncture.

7. However, in the event of their arrest, the petitioner nos. Naijam Uddin @

Nijam Uddin @ Najim Uddin, Abdul Jubbar Sheikh, Asir Uddin, Munuruddin Sheikh, Saddam Hussain, Nabir Hussain Molla, shall be enlarged on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) each with a suitable surety of like amount each to the satisfaction of the arresting authority under the conditions that:

- (i) The petitioners shall appear before the Investigating Officer within 1 (One) week and cooperate with the investigation;
- (ii) The petitioners shall refrain from such activities with which they are apprehending arrest; and
- (iii) The petitioners shall not leave the jurisdiction of the Court without prior permission.

8. On breach of any of the bail conditions, bail order shall stand automatically cancelled. The pre-arrest bail petition of the petitioner no.1, namely, Abdul Kader Ali Sheikh and the petitioner no.8, namely, Samir Ali @ Samer Ali is rejected at this stage.

9. Accordingly, this anticipatory bail stands disposed of.

Send back the case diary.

JUDGE

Comparing Assistant