

GAHC010171712024



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

Case No. : AB/2221/2024

MUIN CHOUDHURY ALIAS MUNNA CHOUDHURY AND 2 ORS
S/O YEAJUL CHOUDHURY

2: ATIKUL CHOUDHURY
S/O LT. AMJED CHOUDHURY

3: AJIJUL CHOUDHURY @ AIJUL CHOUDHURY
S/O LT. AMJED CHOUDHURY
ALL ARE RESIDENT OF VILL- BARPALAHA ISLAMPUR

P.S. BAIHATA CHARIALI

DIST. KAMRUP
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. A T SARKAR, MR A MALEK

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 09.09.2024

- 1)** Heard Mr. A. T. Sarkar, learned counsel for the petitioners. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State of Assam.
- 2)** This application under Section 482 of the BNSS, 2023 has been filed by the petitioners, namely, (1). Muin Choudhury, (2). Atikul Choudhury and (3). Yeajul Choudhury and Ebadul Choudhury, who are apprehending their arrest in connection with Baihata Chariali Police Station Case No.184/2024 under Sections 189(2)/126(2)/109/118(2) of BNS, 2023.
- 3)** The gist of accusation in this case is that on 14.07.2024, one Jakir Ali had lodged an FIR before the Officer In-Charge of Baihata Chariali Police Station, *inter-alia*, alleging that the accused persons named in the FIR, including the present petitioners, had assaulted the father of the informant and inflicted serious injury on his person. Later on, the accused persons named in the FIR also assaulted the paternal uncle of the informant, Monser Ali.
- 4)** It is also stated in the FIR that the paternal uncle of the informant is undergoing treatment in Oval Multi Specialty Hospital situated in Baihata Chariali and his father is now undergoing treatment in Swagat Hospital.
- 5)** The learned counsel for the petitioners has submitted that the allegations levelled in the FIR against the present petitioners are not true. He submits that one Aminul Choudhury was driven out of his house by his wife Amina Choudhury and later on the relative of Amina Choudhury trespassed into the house of the petitioners and assaulted the petitioners causing injury to the

family members of the petitioners and in that regard one FIR has also been lodged by one Jayeda Begum against the family members of the first informant, which was registered as Baihata Chariali Police Station Case No.184/2024.

6) On perusal for the Case Diary, it appears that there are sufficient incriminating materials against the petitioner No.1, namely, Muin Choudhury @ Munna Choudhury as he was the first person who assaulted the father of the informant, namely, Islam Ali by fishing equipments and caused grievous injuries.

7) Therefore this Court is of the Considered opinion that this is not a fit case for grant of a favorable order under Section 482 of the BNSS to the petitioner Munna Choudhury as regards other two accused persons though there are materials to show that they also participated in the assaulted. However, no specific allegations have been levelled against both of the petitioners as how they assault the victim persons.

8) Moreover, considering the fact that two of the accused persons, who were similarly situated to that of the petitioner Nos. 2 and 3 were already granted bail in BA Case No.2529/2024.

9) The petitioners namely, Atikul Choudhury and Ajijul Choudury @ Aijul Choudhury are directed to appear before the Investigating Officer of Baihata Chariali P.S. Case No.184/2024 within a period of 10 days from the date of this order and co-operate in the investigation, if they do so within the stipulated period of time, in the event of their arrest in connection with Baihata Chariali P.S. Case No.184/2024 they shall be allowed to go on bail of Rs.30,000/-(Rupees Thirty thousand only) each with one surety of like amount to the satisfaction of the arresting Authority, subject to the conditions that:-

- (i) the petitioners shall co-operate in the investigation.
- (ii) the petitioners shall not directly or indirectly make

any inducement, threat or promise to the informant or to any other persons who may be acquainted with the facts of the case so as to dissuade such person from disclosing such facts before the Investigating Officer or to any Court; and

- 10)** This anticipatory bail application is accordingly disposed of.
- 11)** Send back the Case Diary.

JUDGE

Comparing Assistant