

GAHC010171852024



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

Case No. : AB/2257/2024

MD ILIAS AHMED AND 6 ORS.
S/O LT. ABDUS SIDDIQUE
R/O VILL- AMBARI PT.I,
P.S. DHUPDHARA
DIST. GOALPARA, ASSAM

2: MD. AKRAM HUSSAIN
S/OLT. ABDUS SIDDIQUE
R/O VILL- AMBARI
PT-I
P.S. DHUPDHARA
DIST. GOALPARA
ASSAM

3: MD. IMRAN HUSSAIN
S/O LT. ABDUS SIDDIQUE
R/O VILL- AMBARI
PT.I
P.S. DHUPDHARA
DIST. GOALPARA
ASSAM

4: MD. MOHIBUL HAQUE
S/O MD. ANOWAR HUSSAIN
R/O VILL- AMBARI
PT.III
P.S. DHUPDHARA
DIST. GOALPARA
ASSAM

5: MD. KHURSHID ALOM
S/O MD. ANOWAR HUSSAIN
R/O VILL- AMBARI
PT.III

P.S. DHUPDHARA
DIST. GOALPARA
ASSAM

6: MD. SAHINUR ISLAM
S/O ABUL HOSSEN
R/O VILL- KHODAIDILA
P.S. DHUBRI
DIST. DHUBRI
ASSAM

7: MD. MANOWAR HOSEN
S/O MD. RAHAMATULYA
R/O VILL- AMBARI
PT.III
P.S. DHUPDHARA
DIST. GOALPARA
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY, MR. S R ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

03.12.2024

- 1.** Heard Mr. B. Chowdhury, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor appearing for the State of Assam.
- 2.** This application under Section 482 of BNSS, 2023 has been filed

by the petitioners, namely, (1) Md. Ilias Ahmed, (2) Md. Akram Hussain, (3) Md. Imran Husasin, (4) Md. Mohibul Haque, (5) Md. Khurshid Alom, (6) Md. Sahinur Islam and (7) Md. Manowar Hosen, who are apprehending their arrest in connection with Dhupdhara P.S. Case No. 41/2024(corresponding to G.R. No. 626/2024) under Section 148/447/325/326/506 of the Indian Penal Code, 1860.

3. The gist of accusation in this case is that on 28.06.2024, one Musstt. Jonali Begum had lodged an FIR before the Officer-In-Charge of Dhupdhara police station naming 21 numbers of accused persons in the FIR, including the present petitioners. In the FIR, it has been alleged, *inter alia*, that on 28.06.2024, at about 9:00 AM in the morning when the husband of the first informant, namely, Rajnur Islam, along with few others were planting Betel nut saplings in their land, the accused persons named in the FIR trespassed into the land armed with deadly weapon and attacked the husband of the first informant and others causing serious injuries on their persons.

4. The learned counsel for the petitioners have submitted that there is a property disputes between the parties and civil litigation is also pending between them and the incident occurred on the said day due to sudden fight between both the parties over dispute over the property.

5. The learned counsel for the petitioners have also submitted that in the altercation as sudden fight which occurred on the day of incident, the family members of the petitioners also sustained injuries due to the assault by the other side and in this respect, an FIR was lodged by one Sairun Nesa, i.e. wife of Manjil Haque, who has also been made as an

accused in this case.

6. The learned counsel for the petitioners have also submitted that in the meanwhile, the co-accused Manjil Haque, has already been granted bail by this Court, by order dated 10.09.2024, passed in Bail Application No. 2548/2024. He has also submitted that one another co-accused namely, Md. Akram Hussain, who also granted interim bail by this Court on 10.09.2024 and in pursuant to the directions of this Court, he has appeared before the Investigating Officer of Dhupdhara P.S. Case No. 40/2024, and has co-operated in the investigation. He has submitted that all the remaining petitioners are ready to co-operate in the investigation and considering the facts of this case, their custodial detention may not be necessary.

7. On the other hand, learned Additional Public Prosecutor has produced the case diaries of both Dhupdhara P.S. Case No. 41/2024(instant case) as well as Dhupdhara P.S. Case No. 40/2024(case registered on the basis of FIR lodged by one Jonali Begum and Sairun Nesa.

8. On perusal of both the case diaries which contains the injury reports, it appears that members of both the sides, sustained injury. It also appears that Md. Akram Hussain, who was granted interim protection by this Court has appeared before the Investigating Officer and his statement has also been recorded by the Investigating Officer.

9. The Investigating Officer has recorded the statement of witnesses in this case and on perusal of the same, it appears that though

incriminating materials are there against the above-named petitioners, however, no specific averment has been made in these statements as to which of the petitioners has assault whom and in what manner.

10. Considering the facts and circumstances of this case as well as progress made in the investigation, this Court is of considered opinion that if the present petitioners co-operate in the investigation, their custodial detention may not be necessary for fair completion of the investigation of Dhupdhara P.S. Case No. 41/2024.

11. In view of the above, the interim bail granted to the petitioner Md. Akram Hussain, by order dated 10.09.2024 is hereby made absolute with the conditions attached to the said order remaining intact. Further, the remaining petitioners are hereby directed to appear before the Investigating Officer of Dhupdhara P.S. Case No. 41/2024, within a period of 7(seven) 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 the aforesaid case, they shall be allowed to go on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority with following conditions that:-

- (i)** the petitioners shall co-operate in the investigation; and
- (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.

12. With the above observations, this anticipatory bail application is

hereby disposed of.

13. Send back both the case diaries, which were requisitioned in connection with this case.

JUDGE

Comparing Assistant