

GAHC010185202024



2024:GAU-AS:10506

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

Case No. : AB/2398/2024

ABDUL JALIL @ ABDUL JALIL BARBHUIYA
S/O LT. BOSIR UDDIN BARBHUIYA
VILL- KUCHILA GRANTH P.O. KUCHILA BAZAR, P.S. AND DIST.
HAILAKANDI, ASSAM.

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA, MS A BEGUM, MS S R MAZARBHUIYA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

28.10.2024

Heard learned counsel, Mr A M Barbhuiya, for the petitioner, Abdul Jalil @ Abdul Jalil Barbhuiya, who has filed this application under Section 482 of the BNSS, 2023, with prayer for pre-arrest bail as he is apprehending arrest in connection with Hailakandi PS Case No. 81/2023, under Sections 147/148/149/447/427/326/307/354(B)/379 IPC, corresponding to GR Case No. 493/2023.

2. Heard learned Additional Public Prosecutor, Mr K K Das, for the respondent/State.
3. It is submitted on behalf of the petitioner that due to subsequent change of circumstances, the petitioner has preferred this subsequent bail application as the earlier bail applications, i.e., AB No. 2614/2023 and AB No. 4083/2023, have been rejected by this Court.
4. Learned Additional Public Prosecutor has raised serious objection stating that there are incriminating materials in the Case Diary against the petitioner. The petitioner is not entitled to bail, as the offence alleged against him is of serious nature. The victim has sustained grievous injuries on a vital part of his body, i.e., the head, which reveals the petitioner's intention to do away with the victim.
5. Learned counsel for the petitioner has submitted that the petitioner is not named in the FIR and there is no direct allegation against the petitioner.
6. The allegation against the petitioner is that on 18.04.2023, at about 11:30 to 12:00 am, there was a heated argument between Alim Uddin Barbhuiya and Komrul Islam regarding the passing of two vehicles, when the accused Abdul Goni Barbhuiya assaulted Komrul Islam. Again on 19.04.2023, to avenge the previous incident at about 05:30 pm, the petitioner armed with deadly weapons attacked Saju Ahmed Laskar causing grievous injuries on his head and causing fracture on the hand of Ekbal Hussain Laskar. Mahmood Halim was also injured during the attack and thereafter, when the informant Dilowar Hussain Laskar went to help Mahmood Halim, he was assaulted in

the process. At about 06:00 pm, Lutfur Rahman forcefully entered into the informant's sister's house and, thereafter, Lutfur Rahman Barbhuiya and Alim Uddin Barbhuiya outraged her modesty. The accused also broke into the house of Ziaur Rahman Laskar and caused grievous injuries on his hand. They also injured Ayub Uddin Laskar and Baharul Alom.

7. I have scrutinized the Case Diary.

8. Indeed there are incriminating materials in the Case Diary against the petitioner.

9. I have considered the gravity of the injuries sustained by the injured persons, Jiabuddin Laskar @ Ziaur Rahman and Bahar Uddin Choudhury. At this juncture, there appears to be no justified ground to extend the privilege of anticipatory bail to the petitioner.

10. Petition with prayer for anticipatory bail stands rejected at this stage, with a liberty to the petitioner to appear before the learned jurisdictional Court, if so advised and apply for bail, which may be considered by the Court, as per law.

11. Send back the Case Diary.

JUDGE

Comparing Assistant