

GAHC010197622024



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

Case No. : AB/2605/2024

TAFAJJUL ISLAM AND ANR
S/O ABDUL HOQUE
R/O VILL- LUCHONABORI
P.O. AND P.S. MOIRABARI
DIST. MORIGAON, ASSAM
PIN CODE- 782126

2: MERAJUL ISLAM
S/O ABDUL HOQUE
R/O VILL- LUCHONABORI
P.O. AND P.S. MOIRABARI
DIST. MORIGAON
ASSAM
PIN CODE- 78212

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. M U MAHMUD, MS. B CHETIA, MS. D BORA, MR S ISLAM, MR S H MAHMUD

Advocate for the Respondent : PP, ASSAM,

Linked Case : Bail Appln./2954/2024

ABDUL HOQUE AND ANR

S/O LATE ABDUL GUFUR
R/O VILL- LUCHONABORI
P.O. AND P.S.-MOIRABARI
DIST- MORIGAON
ASSAM
PIN CODE-782126

2: ABDUL HAI
S/O LATE ABDUL GUFUR
R/O VILL- LUCHONABORI
P.O. AND P.S.-MOIRABARI
DIST- MORIGAON
ASSAM
PIN CODE-782126
VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. M U MAHMUD
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

24.10.2024

Heard the learned counsel Mr. S.H. Mahmud appearing for the petitioners. Also heard Mr. R.J. Baruah, the learned Addl. Public Prosecutor, Assam.

2. Both the bail applications are taken up together as they have arisen out of the same FIR.

3. One application is under Section 482 of the BNSS, 2023 whereas the other one is under Section 483 of the BNS, 2023 in respect of Moirabari P.S. Case No.119/2024, under Sections 61(2)/191(2)/191(3)/126(2)/109/118(2) of the BNS, 2023 (corresponding to G.R. No.940/2024).

4. It is an admitted fact that the informant's side and the present petitioners are already involved in a civil suit regarding a plot of land. The informant Rajibul Hoque has alleged that on 28.07.2024, when his father Md. Abdul Shahid was returning home from a local market, he was forcibly taken to the courtyard of Abdul Motali. There, he was physically assaulted with sharp weapons. Thereafter, the present four petitioners along with some other persons (named in the FIR) had taken the injured person to a bridge in order to throw him into the water below. The FIR is silent as to what was done to Md. Abdul Shahid, after the incident.

5. The witnesses examined by police have implicated all the present petitioners.

6. Mr. Mahmud has submitted that the informant and his family members were forcibly trying to occupy the plot of land involved in the aforesaid civil suit and that is the reason why the incident took place.

7. The petitioners Abdul Hoque, aged about 66 years and Abdul Hai, aged about 55 years have already spent 77 days in judicial custody. Considering the period of detention already undergone by them in judicial custody, their bail application is allowed.

8. In Bail Application No.2954/2024, the petitioners Abdul Hoque and Abdul Hai who were arrested in connection with Moirabari P.S. Case No.119/2024, under Sections 61(2)/ 191(2)/ 191(3)/ 126(2)/ 109/118(2) of the BNS, 2023 (corresponding to G.R. No.940/2024), shall be released on bail of ₹25,000/- each with sureties of like amount to the satisfaction of the learned Chief Judicial Magistrate, Morigaon.

9. So far as the bail prayers of the petitioners Tafajjul Islam and Merajul Islam are concerned in A.B. No.2605/2024, their bail application is rejected as because there are incriminating materials against them in the case diary.

10. Both the bail applications are accordingly disposed of.

Case diary shall be returned.

JUDGE

Comparing Assistant