

GAHC010211022024



2024:GAU-AS:11403

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

Case No. : AB/2700/2024

SORIFUL MOLLAH/LADAN @ SHORIFUL ISLAM AND 11 ORS
S/O SOBUR MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ, P.S. GAURIPUR
DIST. DHUBRI, ASSAM
PIN-783339

2: SOBUR MOLLAH @ ABDUS SOBUR MOLLAH
S/O ABDUR RAHMAN @ ABDUR RAHMAN MOLLAH
VILL- ALOMGANJ (VI)
P.O. ALOMGANJ

P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN- 783339

3: SOLEMAN MOLLAH
S/O ABDUL RAHMAN @ ABDUR RAHMAN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

4: MOTIN MOLLAH @ ABDUL MOTIN MOLLAH
S/O ABDUL RAHMAN @ ABDUR RAHMAN MOLLAH
VILL- ALOMGANJ PT (VI)

P.O. ALOMGANJ

PS GAURIPUR

DIST. DHUBRI
ASSAM
PIN-783339

5: BAHADUR MOLLAH
S/O KUSUMUDDIN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

6: ASAD ALI MOLLAH @ ASAR UDDIN MOLLAH
S/O KUSUMUDDIN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

7: ASIR UDDIN MOLLAH @ ASAR UDDIN MOLLAH
S/O KUSUMUDDIN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

8: JOYNAL ABEDIN @ JOYNAL ABEDIN MOLLAH
S/O ASAR ALI MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

9: JAHERA KHATUN @ JAYDA KHATUN
W/O ASIR UDDIN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

10: SAJIRON BIBI @ SHAJIRON NESSA
W/O SAHAJ UDDIN MOLLAH @ SAHABUDDIN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

11: MANJU KHATUN @ MONJURA KHATUN
D/O MOTIN MOLLAH @ ABDUL MOTIN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-783339

12: MAHMADUL @ MAHMADUL HASAN
S/O SOLEMAN MOLLAH
VILL- ALOMGANJ PT. (VI)
P.O. ALOMGANJ
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-78333

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR Z HUSSAIN, MR. M HOQUE

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 21-11-2024

Heard learned counsel Mr. Z. Hussain for the petitioner Nos. 1. Soriful Mollah/Ladan @ Shoriful Islam, 2. Sobur Mollah @ Abdus Sobur Mollah, 3.

Soleman Mollah, 4. Motin Mollah @ Abdul Motin Mollah, 5. Bahadur Mollah, 6. Asad Ali Mollah @ Asar Uddin Mollah, 7. Asir Uddin Mollah @ Asar Uddin Mollah, 8. Joynal Abedin @ Joynal Abedin Mollah, 9. Jahera Khatun @ Jayda Khatun, 10. Sajiron Bibi @ Shajiron Nessa, 11. Manju Khatun @ Monjura and 12. Mahmadul @ Mahmadul, who have filed this application under Section 482 of Bharatiya Nagaik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as they are apprehending arrest in connection with Gauripur Police Station Case No. 210/2024 under (G.R. No. 856/2024) under Sections 61(1)/191(2)/191(3)/296/117(2)/118(2)/ 109 of Bharatiya Nyaya Sanhita, 2023.

2. Heard Mr. R.R. Kaushik, learned Additional Public Prosecutor, Assam for the respondent State. Learned Additional Public Prosecutor has raised serious objection stating that they have committed a grievous offence and went to the extent of causing grievous hurt on a woman and they are not entitled to bail.

3. It is submitted on behalf of the petitioners that there was a group clash and the petitioners' relatives had sustained grievous injury and a person named Nasir Uddin had sustained grievous injury on his head and had to undergo treatment for several days in the hospital and two cases have been registered out of the same cause of action. Petitioners' side has sustained more injuries than the complainant and her family members.

4. The FIR unfolds that on 25.07.2024 at about 4 PM, the petitioners along with the co-accused entered into the informant's parental home armed with sharp weapons like matches, sticks etc. and assaulted the informant's mother Halima Bibi, causing grievous injury on her. When the informant's father, brother, sister-in-law and aunt tried intervene, they were also attacked in the process and they too sustained grievous injuries. All the injured persons were

shifted to DMCH at Dubri which resulted in the delay in lodgment of the FIR.

5. I have considered the submissions at the bar with circumspection. I have also scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioners. There was indeed a group clash and three other persons were also grievously injured as well as the victim i.e. Baten Mollah, Nurul Mollah and Halima. Baten Mollah has sustained grievous injury on his right forearm.

6. It is verbally submitted that the other three persons who have sustained injuries are family members of the aggrieved.

7. I have considered the submission that there was a group clash. I have also considered the progress of investigation. It is true that one person is grievously injured. Investigation has substantially progressed and injury report has been submitted. It appears that custodial interrogation may not be required.

8. Considering all aspects, petition is allowed.

9. In the event of their arrests, the petitioners shall be enlarged on bail on furnishing a bail bond of Rs.50,000/- (Rupees Forty Thousand) each with a suitable surety of like amount to the satisfaction of arresting authority under the conditions that:

(i) the petitioners shall appear before the Investigating Officer within ten days,

(ii) the petitioners shall refrain from such activities with which they are alleged,

(iii) the petitioners shall appear before the Investigating Officer on every fortnight till completion of investigation and,

(iv) the petitioner shall not tamper with the evidence and influence the witnesses.

10. On breach of any of the bail conditions, this bail order shall automatically stand cancelled.

11. In terms of the above observation, this Bail Application stands disposed of.

12. Send back the Case Diary.

JUDGE

Comparing Assistant