

GAHC010234502024



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

Case No. : AB/2953/2024

LAL MIA AND 16 ORS
S/O KIRAMOT ALI
R/O BAROIPARA,
P.S. KHARUPETIA,
DISTRICT DARRANG, ASSAM

2: JULHAS ALI @ JULHA SK.
S/O KIRAMOT ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

3: BADSHA ALI @ RAHIM BADSHA
S/O KIRAMOT ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

4: ROSTAM ALI
S/O LALMIA
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

5: SAIFUL ISLAM

S/O SUMAR ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

6: HAIDAR ALI
S/O MOJIBUR
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

7: HABEJ ALI @ HABEJALI
S/O MOJIBUR
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

8: JAHUR ALI
S/O CHAN MIA
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

9: ATABAR ALI
S/O JULHAS ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

10: HEDAYET ULLAH @ HEDAYAL
S/O JULHAS ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

11: SUKUR ALI
S/O JULHAS ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

12: ASMON @ ASFAN ALI
S/O MAHADDAS ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

13: MONFUL HOQUE @ MONJUL HOQUE
S/O MOKBUL HOQUE
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

14: JAKIR HUSSAIN @ JAGIR ALI
S/O ALAM ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

15: DULU @ ABU SAHED
S/O ALAM ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG

ASSAM

16: ROFIQUL HOQUE @ ROFIQUL ISLAM
S/O JAHUR ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSAM

17: JALAL ALI
S/O ALAM ALI
R/O BAROIPARA

P.S. KHARUPETIA

DISTRICT DARRANG
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR A ALI, MS. M KHATUN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 22.11.2024

1. Heard Mr. PK Bhuyan, learned counsel for the petitioners, (1) Lalmia, (2) Julhas Ali @ Julha Sk, (3) Badsha Ali @ Rahim Badsha (4) Rostam Ali, (5) Saiful Islam (6) Haidar Ali, (7) Habej Ali @ Habejali, (8) Jahur Ali, (9) Atabar Ali, (10) Hedayet Ullah @ Hedayal, (11) Sukur Ali, (12) Asmon @ Asfan Ali, (13) Monful

Hoque @ Monjul Haque, (14) Jakir Hussain @ Jagir Ali, (15) Dulu @ Abu Sahed, (16) Rofiqul Hoque @ Rofiqul Islam and (17) Jalal Ali, who have filed this anticipatory bail application under Section 482 BNSS, 2023, with prayer for granting them pre-arrest bail in connection with Kharupetia P. S. Case No. 123/2024 under Sections 191(2)/ 191(3)/ 190/ 329(3)/ 117(2)/ 118(2)/ 109/ 326 (3)/ 324(4) BNS, 2023.

2. Also heard Mr. R.R. Kaushik , learned Addl. Public Prosecutor for the State respondent, who has submitted that there are incriminating materials against the petitioner Nos. 1 to 13 i. e. the petitioners namely (1) Lalmia, (2) Julhas Ali @ Julha Sk, (3) Badsha Ali @ Rahim Badsha (4) Rostam Ali, (5) Saiful Islam (6) Haidar Ali, (7) Habej Ali @ Habejali, (8) Jahur Ali, (9) Atabar Ali, (10) Hedayet Ullah @ Hedayal, (11) Sukur Ali, (12) Asmon @ Asfan Ali and (13) Monful Hoque @ Monjul Haque and pre- arrest bail may not be granted at this stage.

3. The allegation made against the petitioners is that a land dispute took place between the petitioners and the informant's side and the petitioners acted in a very brutal manner and caused injuries on the injured persons namely, Abu Sama and Abu Hanifa with dao, dagger, iron rod and sharp weapons, causing grievous injuries on the head of Abu Hanifa resulting in fracture on head. The injured persons have sustained grievous injuries and injuries sustained by them are serious in nature and they were hospitalized immediately.

4. The case diary as called for is received and perused.

5. There are incriminating materials in the case diary against the petitioners namely, (1) Lalmia, (2) Julhas Ali @ Julha Sk, (3) Badsha Ali @ Rahim Badsha (4) Rostam Ali, (5) Saiful Islam (6) Haidar Ali, (7) Habej Ali @ Habejali, (8) Jahur Ali, (9) Atabar Ali, (10) Hedayet Ullah @ Hedayal, (11) Sukur Ali, (12)

Asmon @ Asfan Ali and (13) Monful Hoque @ Monjul Haque and their pre-arrest bail prayer is rejected at this stage.

6. However, from the materials available in the case diary against the petitioner Nos. 14 to 17 namely, (14) Jakir Hussain @ Jagir Ali, (15) Dulu @ Abu Sahed, (16) Rofiquel Hoque @ Rofiquel Islam and (17) Jalal Ali, this court is of the view that their custodial interrogation may not be required.

7. Accordingly, in the event of arrest of the petitioner Nos. 14 to 17, namely, (14) Jakir Hussain @ Jagir Ali, (15) Dulu @ Abu Sahed, (16) Rofiquel Hoque @ Rofiquel Islam and (17) Jalal Ali, they shall be enlarged on pre-arrest bail on furnishing a bond of Rs. 50,000/ each with a suitable surety of like amount to the satisfaction of the arresting authority in connection with the aforesaid case under the following conditions that the petitioner Nos. (14) Jakir Hussain @ Jagir Ali, (15) Dulu @ Abu Sahed, (16) Rofiquel Hoque @ Rofiquel Islam and (17) Jalal Ali:-

- (1) shall appear before the I.O. within 1 (one) week from today;
- (2) shall refrain from such activities with which they are alleged;
- (3) shall appear before the I.O. on every fortnight till completion of investigation, and
- (4) shall not hamper the investigation or tamper with the evidence of the case.

8. On breach of any of the bail conditions, pre-arrest bail order in respect of the petitioners namely, (14) Jakir Hussain @ Jagir Ali, (15) Dulu @ Abu Sahed, (16) Rofiquel Hoque @ Rofiquel Islam and (17) Jalal Ali shall stand automatically cancelled.

9. Bail application is disposed of.
10. Send back the case diary.

JUDGE

Comparing Assistant