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2026:GAU-AS:12215

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

Case No. : Bail Appln./2051/2026

BARKAT ALI MONDAL AND 2 ORS
SON OF LATE ABDUL MAZID.

2: NAJRUL ISLAM
SON OF BARAKAT MONDAL.

3: ROKIBUL ISLAM ALIAS RAKIBUL ISLAM
SON OFHASEM ALI ALL ARE RESIDENTS OF VILLAGE-BARTARY
P.S. KALGACHIA
DISTRICT- BARPETA
ASSAM
PIN-78132

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR. J AHMED, R KHANOM,MR. R ISLAM

Advocate for the Respondent : PP, ASSAM, MR N JAMAL(INFORMANT),MR. I HUSSAIN(INFORMANT),MR A K AZAD(INFORMANT)

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

25.08.2026

1. Heard Mr. J. Ahmed, learned counsel appearing for the petitioners. Also heard Mr. R.J. Baruah, learned APP for the State of Assam and Mr. A.K. Azad, learned counsel appearing for the informant.

2. By this application, the three petitioners, namely Barkat Ali Mondal, Najrul Islam and Rokibul Islam @ Rakibul Islam have prayed for bail in connection with Kalgachia P.S. Case No. 55 of 2026 registered under Sections 103/61(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. The First Information Report, in connection with which the petitioners were arrested, was lodged before the Officer-in-Charge of Barbhita Police Outpost on 03.06.2026. The informant alleged therein that while her husband was returning from the market on his motorcycle, the eight accused persons named in the FIR assembled at a particular place armed with wooden sticks. It was further alleged that pursuant to a conspiracy, accused No. 2 namely petitioner No. 2, struck the informant's husband with a wooden baton causing him to fall to the ground. Thereafter, according to the informant the remaining accused persons also assaulted her husband, thereby causing him serious injuries.

4. The informant further stated that her husband was initially taken to the local health centre and was thereafter shifted to Barbhita Medical College and Hospital for treatment. However, during the course of treatment her husband succumbed to his injuries.

5. The learned counsel appearing for the petitioners submits that the petitioners have been in custody for the last 72 days and that their statements have already been recorded. It is further submitted that the investigation is at its final stage. The learned counsel contends that no specific overt act has been attributed to petitioner Nos. 1 and 3, whereas the only overt act alleged in the FIR is against petitioner No. 2. It is further submitted that petitioner No. 2 has also remained in custody for a considerable period. Accordingly, learned counsel prays for grant of bail to all the petitioners.

6. On the other hand, Mr. R.J. Baruah, learned Additional Public Prosecutor appearing for the State upon perusal of the case diary submits that an independent witness, namely, Amir Hamza, stated that while he was taking the injured husband of the informant to the hospital, the injured person disclosed the names of petitioner Nos. 1 and 2 along with another person, as having assaulted him. Accordingly, the learned APP objects to the grant of bail to petitioner Nos. 1 and 2.

7. It is further submitted that apart from Amir Hamza, two other witnesses have also stated about the statement allegedly made by the deceased. Thus, learned APP submits that there is an oral dying declaration in the present case implicating petitioner Nos. 1 and 2 and accordingly prays that bail may not be granted to them.

8. Mr. A.K. Azad, learned counsel appearing for the informant submits that the period of incarceration undergone by the petitioners by itself cannot be a ground for grant of bail. The learned counsel further submits that the question of granting bail to the petitioners may be considered after the trial has progressed to a certain extent but not at this stage.

9. I have heard the learned counsel for both sides and have carefully perused the records.

10. In the FIR dated 03.06.2026, the wife of the deceased specifically alleged that petitioner No. 2 had inflicted blows upon her husband resulting in injuries. She further alleged that thereafter all the other accused persons including the remaining petitioners, assaulted her husband causing grievous injuries which ultimately resulted in his death. Although Section 3(5) of the BNS has been invoked in the present case, the question as to whether the accused persons shared a common intention is a matter to be considered during trial.

11. Further, there is a specific allegation that petitioner No. 2 had inflicted the first blow upon the deceased. However, it appears from the materials on record that the deceased had sustained multiple injuries as a result of the assault allegedly perpetrated by several persons. In such circumstances, and considering the period of detention undergone by the petitioners, this Court deems it fit to enlarge the petitioners on bail on furnishing a bail bond of Rs.20,000/- each with one local surety of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Barpeta subject to the following conditions:

(i) the petitioners shall appear before the Investigating Officer as and when called for,

(ii) the petitioners shall not hamper and tamper with the evidence of the case and/or influence the witnesses and

(iii) the petitioners shall not leave their residence without prior permission of the Investigating Officer.

12. The Bail Application stands disposed of accordingly.

JUDGE

Comparing Assistant