GAHC010200822026

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

Case No. : AB/2287/2026

ABDUL WARIS BARBHUIYA AND 2 ORS
S/O LATE AMIR HUSSAIN BARBHUIYA LATE SUNAHAR ALI BARBHUIYA,
R/O BOWARGHAT PT-I, P.S. DISTRICT HAILAKANDI, ASSAM

2: ABDUL AHAD BARBHUIYA
S/O ABDUL WARIS BARBHUIYA
R/O BOWARGHAT PT-I
P.S. DISTRICT HAILAKANDI
ASSAM.

3: ABDUL WALI BARBHUIYA MONAI MIA BARBHUIYA
S/O ABDUL WARIS BARBHUIYA
R/O BOWARGHAT PT-I
P.S. DISTRICT HAILAKANDI
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY, MR. R A CHOUDHURY,J M SULAIMAN

Advocate for the Respondent : PP, ASSAM, MS S R MAZARBHUIYA(INFORMANT),MR. A M BARBHUIYA(INFORMANT)

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 13.10.2026

Heard Mr. HRA Choudhury, learned Senior Counsel assisted by Mr. JM Sulaiman, learned Counsel for the petitioners. Also heard Mr. KK Das, learned Additional Public Prosecutor for the State and Mr. AM Barbhuiya, learned Counsel appearing for the victim assisting the learned Additional Public Prosecutor.

2. By this application, the petitioners have prayed for pre arrest bail in connection with Hailakandi P.S. Case No. 129/2026 registered under Sections 329(3)/118(2)/109/ 3(5) of BNS, 2023. The FIR in connection with which the petitioners are apprehending arrest was lodged by the brother of the victim stating inter alia that when the petitioners were cutting the boundary ridge of his land, the informant along with brother went and questioned them and the same resulted in a quarrel and that the petitioners attacked the brother of the informant with sharp spades in their possession. It is also stated that the informant had raised hue and cry and the villagers gathered and the injured was taken to the hospital.

3. The learned Senior Counsel for the petitioners submits that the petitioners were provoked by the informant and his brother and that they reacted to the same. The learned Senior Counsel also submits that the petitioners were doing acts on their own land and not on the land of the informant.

4. Mr. KK Das, learned Additional Public Prosecutor for the State on the other

hand on perusal of the Case Diary submits that the injuries sustained by the brother of the informant was grievous and that there are eye witnesses, who had stated that the petitioners have attacked the informant brother's and the informant as well. He further submits that the age of the petitioner no.1 was wrongly reflected as 70 years of age whereas he was only 56 years of age.

5. Mr. AM Barbhuiya, learned Counsel for the victim also supports the contention made by the learned Additional Public Prosecutor and submits that all the accused persons had attacked the informant and his brother, which resulted in serious injuries.

6. Upon consideration of the submissions made by the learned Counsel for the parties, this Court finds that it is clearly stated in the FIR and it is also found in the statement of the witnesses that all the petitioners had attacked the informant and his brother and that his brother had sustained grievous injuries and the place where he was hit was the head of the brother.

7. As such, this Court does not deem it fit to enlarge the petitioner no.2 and petitioner no.3 on pre arrest bail. However, as far as the petitioner no.1 is concerned, he was enlarged on interim pre arrest bail by order dated 18.09.2026 on the condition that he should go and appear before the Investigating Office.

8. Mr. KK Das, learned Additional Public Prosecutor on perusal of the Case Diary submits that he went and his statement is recorded. As such, it is seen that he is cooperating with the investigation and accordingly the order dated 18.09.2026 as far as petitioner no.1 is concerned is made absolute with the further direction that the petitioner no.1 should abide by the conditions already narrated in the interim order.

9. Petition is disposed of.

JUDGE

Comparing Assistant