

GAHC010215492022



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

Case No. : Bail Appln./2807/2022

SHAHJAHAN ALI @ SAHJAHAN ALI AND 2 ORS.
S/O AKBAR ALI,
VILL.- KADAMTALA PT- II,
P.O. AND P.S- BILASIPARA,
DIST.- DHUBRI, ASSAM, PIN- 783348.

2: JAHIRUL ISLAM
S/O LT HAZRAT ALI

VILL.- BILASIPARA
W/NO. 1

P.O. AND P.S.- BILASIPARA

DIST.- DHUBRI
ASSAM
PIN- 783348.

3: ABDUL AWAL
S/O LT JINNAT ALI SARKAR

VILL.- KADAMTOLA PART- II

P.O. AND P.S.- BILASIPARA

DIST.- DHUBRI
ASSAM
PIN- 783348

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MR. T J MAHANTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 27.10.2022

Heard Mr. T.J. Mahanta, learned senior counsel, assisted by Mr. R. Sarkar, learned counsel for the petitioners. Also heard Mr. Bhaskar Sarma, learned Addl. P.P. for the State.

2. The petitioners, namely, (1) Shahjahan Ali @ Sahjahan Ali, (2) Jahirul Islam, and (3) Abdul Awal, who were arrested on 30.08.2022, 29.08.2022 and 29.08.2022 respectively in connection with Bilasipara P.S. case no. 265/2022 under sections 447/427/325/ 326/34 IPC with added section 302 IPC, are seeking regular bail by filing this application under section 439 Cr.P.C.

3. The learned APP has produced the case diary, which was available in connection with another bail application listed today and has opposed the prayer for bail. It was submitted that about 12 FIR named accused along with several other persons had come in a group and had tried to grab the land of the informant's family and when they objected to such act, the members

of the informant's family were attacked. It was also submitted that while several persons sustained injuries of various description, the father of the informant was grievously injured and while availing treatment, he had died. It was also submitted that at the time when the grievously injured father of the informant was being taken for medical treatment, he had informed the persons taking him for medical treatment that the petitioner no. 1 was one of the accused persons who had assaulted him. It was submitted that several witnesses examined by the I.O. have implicated the name of the petitioners to have attacked the father of the informant resulting in his grievous injuries which led to his death.

4. On perusal of the case diary, it appears that there are sufficient materials to implicate the petitioners of assaulting the members of the family of the informant and grievously injuring the father of the informant, who has later on expired. It appears that the injuries were caused by assault made by the petitioner no. 1 on the head of the deceased victim by an iron rod. It is also noted that the witnesses have also implicated the petitioner no. 1 to be a professional land grabber and that he is involved in committing many offence in the locality and that he is known for his notoriety. Nonetheless, the I.O. has not mentioned the past criminal record of the petitioner no. 1 in the case diary.

5. However, as the three petitioners have been in custody for 58, 59 and 59 days respectively, the Court is of the considered opinion that the further custodial interrogation of the petitioners is not required. Hence, the Court is inclined to release the petitioners, namely, (1) Shahjahan Ali @ Sahjahan Ali, (2) Jahirul Islam (FIR named accused no. 9), and (3) Abdul Awal

on bail on furnishing a bail bond of Rs.1,00,000/- (Rupees One lakh only) each with two sureties of like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate (M), Bilasipara. Out of the two sureties, one of the bailors should offer his/her immovable property as security for grant of bail.

6. Bail is granted on the following conditions:

- i. All the petitioners shall appear before the Court in the present case on all the dates fixed for trial after charge-sheet is filed.
- ii. The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to Court or to any police officer or tamper with the evidence. They shall not, in any manner, try to overawe or influence or intimidate the prosecution witness.
- iii. The petitioners shall not obstruct the smooth progress of the trial/ investigation.
- iv. The petitioners shall not misuse their liberty in any manner.
- v. The petitioners shall not jump over the bail.
- vi. The petitioners shall once again appear before the IO within 10(ten) days of their release from jail and thereafter, they shall continue to appear before the I.O. once every 15 (fifteen) days till their personal appearance is dispensed with or charge sheet is submitted, whichever is earlier.
- vii. In the event the petitioners threaten any member of the

informant's family or any witness, or if any of the conditions for grant of bail is violated, it would be open to the I.O. to move the jurisdictional Court and apply for cancellation of bail.

viii. It is also provided that in the event any of the petitioners are found involved in any similar offence, it would be open to the I.O. to move the jurisdictional Court and apply for cancellation of bail.

7. This application stands disposed of.

8. Case diary is returned.

JUDGE

Comparing Assistant