

GAHC010184222021



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

Case No. : AB/3666/2021

HASHEM ALI AND 14 ORS
S/O LATE SAJAL KHAN
R/O VILL- BHULUKABARI PATHAR, P.S. AND DIST. BARPETA, ASSAM

2: BABUL HUSSAIN
S/OLATE MOGBUL HUSSAIN
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

3: JASHIDUL
S/O SAMAN ALI
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

4: RAFIK ALI
S/OLATE KADDUS ALI
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

5: SHAHANUR ALOM
S/O MOTI MIA
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

6: MOHIDUL ISLAM
S/O AYNAL HAQUE
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

7: AYNAL HAQUE
S/OLATE NABAB ALI
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

8: OWAHEDUR RAHMAN
S/O LATE JOIN UDDIN
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

9: AJIBAR RAHMAN
S/O LATE BAHU MIA
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

10: FAJAR ALI
S/OLATE SHONGSER ALI
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

11: ABDUS SALAM
S/OLATE CHAN MIA
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

12: RAHID ALOM
S/O KOLIMUDDIN
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

13: SADDAM HUSSAIN
S/O BABAR ALI
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

14: HAZRAT ALI
S/O LATE MOFEZ UDDIN
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSAM

15: JEHERUL ISLAM
S/O LATE SARBESH ALI
R/O VILL- BHULUKABARI PATHAR
P.S. AND DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : DR. B AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

30.11.2021

Heard Mr. N. Haque, learned counsel appearing for the petitioners. Also heard Mr. P. Borthakur, learned Addl. Public Prosecutor, Assam appearing for the State respondent and Mr. S.H. Sikdar, learned counsel for the informant.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **1) Hashem Ali 2) Babul Hussain 3) Jashidul 4) Rafik Ali 5) Shahanur Alom 6) Mohidul Islam 7) Aynal Haque 8) Owahedur Rahman 9) Ajibar Rahman 10) Fajar Ali 11) Abdus Salam 12) Rahid Alom 13) Saddam Hussain 14) Hazrat Ali and 15) Jeherul Islam** apprehending arrest in connection with **Barpeta P.S. Case No. 1994/2021 u/s 120B/447/448/395/397/34** of the IPC.

The Case diary, as called for, is placed before the Court.

Mr. N. Haque, learned counsel appearing for the petitioners, submits that the petitioners are roped into a false and concocted case to avenge the filing of a case being Barpeta P.S. Case No. 1990/2021 under Sections 120B/498A/307/376 of the IPC dated 07.09.2021 alleging rape on the informant by her father-in-law on 05.09.2021.

The F.I.R. reveals the allegation that on 06.09.2021, the petitioners entered into the house of the informant's father-in-law and apart from damaging his car, looted an amount of Rs.2,20,000/- along with gold ornaments.

The case diary of Barpeta P.S. Case No. 1994/2021 including the various statements recorded u/s 161 Cr.P.C. reveals prima facie abundance of incriminating material against the petitioners, subject, however, to final outcome in investigation. The investigation is yet to be completed.

Therefore, this Court is of the opinion that it is not a fit case to grant the privilege of pre-arrest bail to the petitioners.

Accordingly, the pre-arrest bail application stands rejected.

Return the case diary.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant