

GAHC040018272024



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

Case No. : BA/133/2024

Jing Borang
Son of Joyonto Borang, permanent resident of Mebo, East Siang District, Arunachal Pradesh.

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Uttam Bori,

Advocate for the Respondent : P P of AP,

Linked Case : BA/134/2024

Maklung Pertin
Age: 45
Occupation :
Address: Son of Mage Pertin
permanent resident of Sawmill Area
PO and PS Pasighat
East Siang District
Arunachal Pradesh.

VERSUS

The State of AP
Age: 0
Occupation :

Address:represented by the PP of AP

Advocate for : Uttam Bori

Advocate for : P P of AP appearing for The State of AP: Advocate appearing for respectively.

Linked Case : BA/140/2024

Redong Megu

Age: 50

Occupation :

Address:Son of Late Ojing Megu

resident of High Region

PO and PS Pasighat

East Siang District

Arunachal Pradesh.

VERSUS

The State of AP

Age: 0

Occupation :

Address:represented by the PP of AP

Advocate for : S V Darang

Advocate for : P P of AP appearing for The State of AP: Advocate appearing for respectively.

Linked Case : BA/141/2024

Jumli Riram

Age: 51

Occupation :

Address:Son of Late Marjum Riram

resident of High Region

PO and PS Pasighat

East Siang District

Arunachal Pradesh.

VERSUS

The State of AP

Age: 0
Occupation :
Address:represented by the PP of AP

Advocate for : S V Darang
Advocate for : P P of AP appearing for The State of AP: Advocate appearing for respectively.

Linked Case : BA/7/2025

Tanya Kakki
Age: 65
Occupation :
Address:Son of Late Tummar Kakki
resident of Napit
PO and PS Pasighat
East Siang District
Arunachal Pradesh.

VERSUS

The State of AP
Age: 0
Occupation :
Address:represented by the PP of AP

Advocate for : Chorpok Modi
Advocate for : P P of AP appearing for The State of AP: Advocate appearing for respectively.

Linked Case : BA/139/2024

Ratnam Tayeng
Age: 26
Occupation :
Address:Daughter of Toni Tayeng
a residence of near Fire Station Pasighat
PO and PS Pasighat
East Siang District
Arunachal Pradesh

VERSUS

The State of AP
Age: 0
Occupation :
Address:represented by the PP of AP

Advocate for : Abhai Kumar Singh
Advocate for : P P of AP appearing for The State of AP: Advocate appearing for
respectively.

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 31-01-2025

- 1.** Heard Mr. Uttam Bori, learned counsel for the petitioners in BA/133/2024 and BA/134/2024; Mr. Abhai Kumar Singh, in BA/139/2024; Ms. S.V.Darang, in BA/140/2024 and BA/141/2024 and Ms. Tame Rimi, in BA/7/2025. I have also heard Ms. T. Jini, learned Additional PP for the State of AP and Ms. Oyam Bingab, learned counsel representing the victim side/informant.
- 2.** The above batches of bail applications are taken up together for disposal as they all have arisen out of the same Pasighat PS Case No. 94/2024 under section 103(2)/127(2)/49 of Bharatiya Nyaya Sanhita, (BNS), 2023.
- 3.** The petitioners in the above bail applications are seeking release of the accused persons namely; (1) Tojing Borang in BA/133/2024; (2)Tatto Pertin in BA/134/2024; (3) Oying Tayeng in BA/139/2024; (4) Tenzing Megu in BA/140/2024; (5)Limar Riram in BA/141/2024 and (6) Batum Kakki in BA/7/2025. They all were arrested in connection with Pasighat PS Case No. 94/2024 under section 103(2)/127(2)/49 of Bharatiya Nyaya Sanhita, (BNS),

2023.

4. The case of the petitioners is that based on the written FIR lodged by one Smti. Mohimang Litinon 20.7.2024, alleging that her son Olip Litin Mukherjee was murdered in the Rehab Centre at Gumin Nagar, Pasighat owned by Shri Nason Borang and brought the dead body to BPGH, Pasighat for post mortem without informing her, the aforementioned PS case was registered.

5. The police investigated the case and arrested accused (1) Tojing Borang in BA/133/2024 on 6/8/2024; (2) Tatto Pertin in BA/134/2024 on 20.07.2024; (3) Oying Tayeng in BA/139/2024 on 20.07.2024; (4) Tenzing Megu in BA/140/2024 on 23.07.2024; (5) Limar Riram in BA/141/2024 on 23.07.2024; and accused (6) Batum Kakki in BA/7/2025 on 29.07.2024.

6. Earlier the bail applications moved for release of the accused persons Tenzing Megu and Limar Riram, filed before the Court of the Chief Judicial Magistrate, Pasighat during the investigation period were rejected. Thereafter, the bail application moved before the Session's Court, Pasighat, for release of all the accused persons were also rejected on 16.12.2024. These are the subsequent bail applications for their release on the grounds of parity; and that they have been languishing inside the jail custody for about 6 to 7 months since their arrest; and that the trial of the case has been long delayed and it is likely to take longer time for the trial and disposal.

7. The learned counsel for the petitioners submits that the although the accused persons were present on the spot, but they reached the spot at the later stage. And although they had participated in the assault of the other inmates, but they have not assaulted the deceased Olip Titin Mukerje. It is also submitted that the police have arrested them merely based on the finding in the

alleged CCTV footage of the spot, but the FSL report of the CCTV Footage is not on record of the charge sheet. It is submitted that all the accused persons are permanent residents of Pasighat, and they are ready to cooperate with the trial of the case, as such there is no possibility of jumping bail. It is further submitted that the accused persons are ready to furnish adequate bail bond and abide by any conditions to be imposed for their release. Hence, prays for their release on bail.

8. The learned Additional Public Prosecutor submits that after completion of the investigation, the IO has already submitted the case into charge sheet against 26 accused persons, including the present six accused persons. And as the FSL report of the CCTV footage was not yet received at the time of filing the charge sheet, the IO has kept open for submission of supplementary charge sheet on receipt of the FSL Report. She further submits that the charge sheet was filed on 15.10.2024 and the matter was immediately fixed on 10.12.2024 for their production and supply of police papers, and the next date is fixed for consideration of charges. Thus, there has been no delay in the trial of the case.

9. While referring to the case record, she submits that the investigation reveals that accused, Nason Borang was running a Drug Rehabilitation Centre at Gumin Nagar, Pasighat, by named '**Serene Life Foundation**'. He was operating the said Rehab Centre without any government approval and authorization as a profit-making business for the owner, who himself was a drug addict previously.

10. It further reveals, that the deceased late Olip Litin Mukerjee along with around 50 other persons were the inmates of the said Rehabilitation Centre. And as per the statement of the eye witnesses, the statement of the accused persons and the finding of the investigation till date, reveals that the accused

Nason Borang along with (i) Shri Danial Jerang, (ii) Shri Ojing Modi (iii) Shri Anand Mayong, (iv) Shri Kanam Dai, (v) Shri Mibom Borang, (vi) Shri Tatto Pertin, (vii) Shri Tator Mayong, (viii) Shri Otem Talom, (ix) Shri Oyin Tayeng, (x) Shri Kalot Tayeng, and (xi) Shri Kenzing Mize, used to punish/torture all inmates of the Rehab Centre every morning, afternoon and evening by making them to do bike position, kneeling down, spider man, superman and boat and sit up for 500 to 1000 times. It further reveals that if any inmates made a small mistake, they used to beat all inmates with the plastic lathi, cane sticks and bamboo sticks. This inhumane and illegal torture was part of their so called 'Rehabilitation Strategy in the Centre'.

11. The record further reveals that as the living condition in the Rehab Centre was unbearable, faced with the above kind of treatment in the Centre coupled with the problem of bathroom, toilet and suffocation, some inmates, seventeen in numbers made a secret plan to escape the Rehab Centre. However, they failed in their attempt to escape on 19.7.2024, due to the intervention of senior inmates including the accused persons, Tatto Pertin and Oying Tayeng. As a result, all 17 inmates including the deceased Olip Litin Mukerjee were identified from the CCTV footage and were assaulted by all including the six accused persons with slaps, kicks, plastic sticks, cane sticks and bamboo stick. The accused Nason Borang also brought Nylon/plastic rope and at his direction all victims including the deceased's hands were tied. After tying their hands with rope the accused persons including the present six accused persons again assaulted them with slaps, kicks, plastic sticks, cane sticks and bamboo sticks. They were beaten black and blue in order to teach them a lesson so that no one ever dares to escape. The torture went on for about 2-3 hours. The entire incident of assault has been captured in CCTV

camera installed inside the main hall of the Serene Life Rehab Centre which was seized and sent for FSL report.

12. As a result of such assault, the deceased, Olip Litin Mukerjee died. The Inquest report and the post Mortem report of the deceased corroborates the statements of the witnesses that the cause of the death of the deceased was due to "*Hypovolumic shock due to extensive bruises all over the body caused by multiple blunt traumas due to physical assault*". The record also reveals that on going through the DVR of CCTV seized from the Rehab Centre, it was found that all the above accused persons has assaulted the 16 (sixteen) inmates and Late Olip Litin Mukherjee of Rehab Centre, who tried to escape from the Rehab Centre on 19/07/2024.

13. Under the above circumstances, the IO found prima facie case against the accused persons including the above six accused persons for commission of offence punishable u/s 103(2)/127 (2)/49 of BNS, 2023.

14. The learned Additional PP further submits that the accused persons cannot claim parity as the case of the accused persons Nason Borang and Tojing Borang were not considered on merit. Accused person, Nason Borang, was granted bail as his child expired, and accused Tojing Borang was granted bail as his father also expired at the time of filing the bail.

15. She further submits that reason for rejection of the bail of the above six accused persons was that there was sufficient incriminating material against them, and also there is a possibility of the accused tampering with the evidences, as from the statement of the mother of the deceased victim, it was revealed that the relatives of the accused persons approached her on three occasions on 21.7.2024, 22.7.2024 and on 23.7.2024 for compromising and

resolving the matter in Kebang.

16. It is the further submission of the learned Additional PP that under the given circumstances, at this stage, if the accused persons are enlarged on bail, it would adversely affect and hamper the fair trial of the case. Furthermore, it is submitted that as the accused persons are influential persons, there is every possibility that they might induce the witnesses, so as to dissuade them from disclosing such facts before the Court. She added that there is also a likelihood of the accused persons hampering with the evidences and threatening the other witnesses as well. For the reasons as stated above, the learned Addl. PP and the counsel representing the victim's mother vehemently object to the release of the accused on bail.

17. In support of her submission, the learned Addl. PP has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan and Anr***, reported in ***(2004) 7 SCC 528***, the relevant paragraph is reproduced herein below:

“11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are,

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;

(b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(c) Prima facie satisfaction of the Court in support of the charge; (See Ram

Govind Upadhyay Vs. Sudarshan Singh and others (2002 (3) SCC 598) and Puran Vs. Rambilas and another (2001 (6) SCC 338)”

18. Heard the learned counsel for the parties. I have also perused the case record produced.

19. The record reveals that the accused person along with the other accused persons present on the spot has assaulted the deceased Olip Litin Mukerjee and 16 others inmates on 19.07.2024 due to which the deceased died on the same evening. As per the record, even the accused themselves have admitted that they were present on the spot and involved in assaulting the other victims although they denied having assaulted the deceased.

20. Under the given circumstances and considering the nature of allegation and the magnitude of the offence alleged to have been committed by the accused persons and their involvement in the assault incident as revealed in the record, and also considering that the matter is still pending for consideration on charge and the accused persons having found tried earlier to influence the family of the deceased for compromising and are likely to influence the witnesses, so as to dissuade the other witnesses which might hamper the fair trial of the case, I am not inclined to grant bail to the accused persons at this stage. Accordingly, these bail applications are rejected.

21. The bail applications stands dismissed.

JUDGE

Comparing Assistant