

GAHC010106482025



2025:GAU-AS:10337

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

Case No. : AB/1122/2025

MD ALI HUSSAIN ALIAS ALI HUSSAIN AND 3 ORS.
S/O ASRAF ALI
R/O VILL- AIRONJONGLA
PT. I, P.S. DHUBRI,
DIST. DHUBRI, ASSAM

2: NUR ALOM SHEIKH
S/O ASRAF ALI
R/O VILL- AIRONJONGLA
PT. I
P.S. DHUBRI
DIST. DHUBRI
ASSAM

3: SHAHA ALOM SK.
S/O ASRAF ALI
R/O VILL- AIRONJONGLA
PT. I
P.S. DHUBRI
DIST. DHUBRI
ASSAM

4: ROHOM ALI
S/O ASRAF ALI
R/O VILL- AIRONJONGLA
PT. I
P.S. DHUBRI
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ, A S CHOUDHURY,MR A W AMAN,MR. SURAJIT DAS

Advocate for the Respondent : PP, ASSAM, MS F INTAZ (INFORMANT),MR. Z H AHMED (INFORMANT),MR. M A SHEIKH (INFORMANT)

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

07-08-2025

Heard Mr. S. Das, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, for the State respondent No.1. Also heard Mr. M. A. Sheikh, learned counsel for the informant.

2. This is an application under Section 482 BNSS, 2023 praying for grant of pre-arrest bail to the accused/petitioners, who are apprehending their arrest in connection with Dhubri P.S. Case No. 194/2025 under Sections 189(2)/103(1) of the BNS, 2023.

3. Case Diary is placed before the Court. I have perused the same.

4. It is submitted by Mr. Das, learned counsel that the present petitioners are innocent and they have not committed any such offence as alleged in the FIR.

5. He submitted that on 11.04.2025 an FIR was lodged by the deceased himself before the Officer-in-Charge of Bazar Outpost, Amco Road, Dhubri, Assam with the allegation of assault on him by the FIR named accused persons for which he sustained injuries on his persons and had to take treatment.

6. The said FIR of the victim/deceased was registered as Bazar TOP G D Entry No. 157 dated 11.04.2025. But surprisingly, the present FIR has been lodged by

the father of the victim/deceased, who subsequently succumbed to the injuries sustained by him with the allegation that the victim was assaulted on 11.04.2025 while he was returning home and for which he sustained grievous injuries and succumbed to the injuries in the hospital.

7. He submitted that in the earlier FIR which was lodged by the victim himself, did not name the present petitioners, who have been implicated in the present FIR and it is seen that all the family members of the accused No.1, namely, Unus Ali in the earlier FIR has been made accused in the present FIR without their involvement in the alleged offence.

8. He submitted that the victim himself lodged the FIR naming specifically six numbers of persons including the accused No.1 in the present case and the victim/deceased will be the best person to identify as to who assaulted him causing bodily injury. But, without any involvement, the other accused persons were implicated in the case by lodging an FIR by the father of the victim/deceased on the same set of allegations.

9. Accordingly, Mr. Das, learned counsel submitted that these petitioners are innocent and they are not at all involved in the alleged incident. However, the present petitioners are ready and willing to cooperate with the IO in further investigation of the case, if they are granted with some interim protection.

10. Mr. Borthkur, learned Addl. PP submitted in this regard that it is a fact that one FIR was earlier lodged by the victim/deceased himself, which is also available in the case diary. But from the materials so far collected by the I.O., it is seen that some of the witnesses implicated all the present petitioners alleging that they have also assaulted the deceased on the day of the incident. Mr. Borthakur, learned Addl. PP accordingly submitted that the prayer for pre-arrest bail cannot be considered at this stage as their custodial interrogation may be necessary for the purpose of

investigation of the case.

11. Mr. Sheikh, learned counsel for the informant submitted in this regard that the earlier FIR was lodged by the victim/deceased himself when the FIR named accused persons tried to commit theft and when he interrupt, they assaulted the victim. The said incident had occurred when he was discharging his duties. But the present FIR was lodged by the father of the victim wherein it is specifically mentioned that the accused persons assaulted the victim when he was returning from his duty. He was subsequently referred to the GMCH for treatment, where he succumbed to the injuries sustained by him. Thus both the FIRs are not from the same incident, though it is claimed to be out of same incident.

12. Mr. Sheikh, learned counsel further submitted that all the present accused petitioners including the other accused persons had brutally assaulted the victim for which he died in the hospital. Mr. Sheikh, learned counsel also submitted that it is not also believable that a person who was brutally assaulted will be able to lodge an FIR for the incident. Thus, it is very clear from both the FIRs that there was a subsequent incident, wherein the victim was bodily assaulted and he succumbed to the injuries.

13. Mr. Sheikh, learned counsel accordingly raised vehement objection and submitted that it is not at all a fit case to grant the privilege of pre-arrest bail to the accused petitioners.

14. Heard the submission of the learned counsel for the parties and also perused the case diary wherefrom it is seen that it is admitted that there was some incrimination brought by some witnesses against the present accused petitioners in assaulting the deceased/victim, but on enquiry, the learned Addl. PP submitted that the earlier FIR on which GD Entry was made was lodged on the next day of the incident i.e., on 11.04.2025 at about 01:00 pm, so the question arises if the

victim/deceased sustained injuries for the incident that occurred on 10.04.2025, who was admitted to the hospital, how he can lodge an FIR on the next date i.e., on 11.04.2025 at about 01:00 pm. It is also an admitted fact that in the FIR the victim/deceased mentioned names of six accused persons and in the FIR lodged by the father of the victim/deceased altogether names of 10 persons have been mentioned including the family members of the accused No.1 Unus Ali, who is also accused No.1 in the earlier FIR, lodged by the victim himself.

15. So, the entire situation creates a reasonable doubt as to whether, these four petitioners were actually involved in the alleged offence, or as to whether they were involved in assaulting the victim/deceased for which the victim sustained grievous injuries on his person and he died.

16. Considering all these aspects of the matter and also considering the materials in the case diary, I find that an opportunity should be given to all these four petitioner to appear before the concerned I.O. of the case and to co-operate with the investigation of the case.

17. Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, **(i) Md. Ali Hussain @ Ali Hussain, (ii) Nur Alom Sheikh; (iii) Shaha Alom Sk** and **(iv) Rohom Ali**, in connection with Dhubri P.S. Case No. 194/2025 under Sections 189(2)/103(1) of the BNS, 2023, they shall be enlarged on interim pre-arrest bail on their executing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) each only with one surety of the like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioners shall appear before the Investigating Officer of the case within a period of 1(one) week from today to enable recording of their statements;
- (ii) that the petitioners shall fully co-operate with the

investigation of the case and shall appear before the Investigating Officer as and when required in connection with the investigation of the aforesaid P.S. Case and

- (iii) that 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 the Court or to any police officer.

18. List the matter, accordingly, on **09.09.2025** for production of the Case diary.

JUDGE

Comparing Assistant