

GAHC010141032026



2026:GAU-AS:10051

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

**Case No. : AB/1549/2026**

BAHARUL ISLAM AND ANR  
S/O NUR UDDIN,  
A PERMANENT RESIDENT OF VILL - SAIDPUR, P.O. AND P.S. CACHAR,  
DIST - ASSAM, PIN - 788013

2: ABDUS SUBUR  
S/OYEASIN ALI

A PERMANENT RESIDENT OF VILL - BORPUKHURI  
SIBPUR  
P.O. P.S. MURAJHAR  
DIST - HOJAI ASSAM  
PIN - 782439

VERSUS

THE STATE OF ASSAM  
TO BE REPRESENTED BY THE LEARNED PUBLIC PROSECUTOR, ASSAM

**Advocate for the Petitioner** : TAWHID LASKAR, MR P BHATTACHARJYA,MR. B  
PURKAYASTHA,MR. U CHOUDHURY,MR. B M CHOUDHURY,MS. S NISHA SULTANA

**Advocate for the Respondent** : PP, ASSAM,

**BEFORE**  
**HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

**ORDER**

**Date : 22-07-2026**

Heard learned counsel Mr. B.M. Choudhury for the petitioners, 1) Baharul

Islam and 2) Abdus Subur, who have filed this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer for pre-arrest bail as they are apprehending arrest in connection with Murajhar Police Station Case No. 82/2026 registered under Sections 61(2)/199/201/316(5)/318(4)/336(3)/340(2)/344/314 of the Bharatiya Nyaya Sanhita, 2023.

2. It is submitted that the petitioner No. 1 Baharul Islam is the BEEO, whereas the petitioner No. 2 is the Headmaster of the Borpukhuri LP School. The complainant Tazul Islam, who lodged the FIR against the petitioners was the earlier President of the School Management Committee (SMC) and he was removed by the BEEO on allegation of forgery and breach of trust.

3. The FIR by Tazul Islam unfolds that he was appointed as the President of the SMC of Barpukhuri L.P. School with due approval of the DEEO, Nagaon, on 26.01.2026 after a general meeting. The Government funds were allocated in the same school in the year 2025 for construction of kitchen shed and the petitioner No. 1 had demanded financial gratification against the said construction for allocation of the funds, which was rejected by him (complainant). Then the petitioner No. 2 along with the petitioner No.1 convened an illegal interim special general meeting on 09.11.2025 where only 5 (Five) SMC members were shown as present and their signatures were taken along with the signatures of some local guardians by visiting their house; and by misleading them, the illegal SMC was constituted by the petitioner No. 1 as President and a resolution was drawn up by a person namely Abdul Sukkur, who is the elder brother of the petitioner No. 2. Accordingly, the newly constituted SMC was found to be illegal as Abdul Sukkur was not a member of the SMC as approved by the Department and as the SMC was constituted and meeting

convened in presence of only 5 (Five) SMC members out of 17 (Seventeen), violating the mandatory provision of attendance of  $\frac{2}{3}$ <sup>rd</sup> SMC members and violating provisions of the Educational Manual, Assam.

4. It is further alleged through the FIR that on further enquiry, the signatures in the resolution pages were denied by the persons who were shown to have affixed their signatures showing them as members present. It is alleged that fake signatures were obtained by the petitioners by usurping into the office of the complainant and without any notice or hearing, both the petitioners had withdrawn the Government funds provided for development of infrastructure, funds provided to students for school uniforms, funds related to MDM amongst the students from the school's bank account illegally. It is further alleged that both the petitioners have stopped serving the MDM to the students and they committed theft of 10 quintals of rice from the school store room for wrongful gain. On these allegations, the FIR was lodged and registered and investigation commenced.

5. It is further submitted by the learned counsel for the petitioners that the documents annexed with the additional affidavit reveals that no misappropriation as alleged by the informant could be revealed by the bank statements. It is submitted that Annexure-10 of the additional affidavit reveals that on 13.10.2025 the information relating to the amount of Rs.21,282.38/- in the updated bank passbook as balance and 305 kgs of rice for MDM is available along with the other articles. The utilization certificate at Annexure-12 clearly reveals the utilization amount of Rs.3,14,880/- on 03.06.2025 during the tenure of the complainant, as the petitioner No. 2 took charge only on 03.10.2025.

Through a letter dated 05.01.2026, the BEEO was informed about the corruption in the school during the tenure of the informant and the letter is marked as Annexure-11.

6. It is submitted that as such allegations have been made against the informant, a false case has been brought up against both the petitioners, whereas the bank statement and the audit report clearly reveal the balance in the account and the utilization of the same. Annexure-13 series are the bank statements and Annexure-14 is the audit report, which exonerates the petitioners with the allegation of misappropriation of funds and MDM rice.

7. *Per contra*, learned Additional Public Prosecutor Mr. M.P. Goswami has raised serious objection, stating that there are two sets of allegations. The submissions that the BEEO has no hand in misappropriation of funds or rice of MDM, cannot be accepted. The allegation is also directly against the petitioner No. 1 that a fake meeting by obtaining fake signatures of attendance in the meeting, has also been procured on the behest of the BEEO, petitioner No. 1. The submission of the learned counsel on behalf of the petitioners that the meeting was approved by the DEEO, cannot be considered at this stage because it was under the instance of the BEEO, the meeting as alleged, was approved by the DEEO.

8. After the enquiry, it was found that the signatures were fake, the statements of the witnesses whose signatures have been taken clearly reveals that they have not affixed their signatures. This is the reason why the DEEO has approved the meeting as mentioned in the FIR.

9. I have also scrutinized the Case Diary. Indeed, there are incriminating materials in the Case Diary against the petitioners. Investigation is still under progress.

10. At this juncture, there appears to be no justified ground to extend the privilege of anticipatory bail to both the petitioners. Petition with prayer for anticipatory bail stands rejected at this stage.

11. In terms of the above observation, this anticipatory bail application stands disposed of.

12. Send back the Case Diary.

**JUDGE**

**Comparing Assistant**