

GAHC010194552025



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

Case No. : I.A.(Crl.)/1122/2025

SRI MANIK BISWAS
S/O LATE NITAL BISWAS
R/O KALIA GAON
P.S. DHOLLA
DIST. TINSUKIA
ASSAM
PIN 786154

2: KIRAN BISWAS
S/O LATE NITAI BISWAS
R/O KALIA GAON
P.S. DHULIA
DIST. TINSUKIA
ASSAM
PIN 786154

3: POTOI BISWAS
W/O SRI MANIK BISWAS
R/O KALIA GAON
P.S. DHOLLA
DIST. TINSUKIA
ASSAM
PIN 786154

4: RATAN BISWAS
S/O SRI JOYAL BISWAS
R/O HATI CAMP
PS. DHOLLA
DIST. TINSUKIA
ASSAM
PIN 786154

5: HEMANTA BISWAS

S/O SRI UDDAB CH. BISWAS
R/O HATI CAMP
P.S. DHOLLA
DIST. TINSUKIA

ASSAM
PIN 786154
VERSUS

THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for : MR. BHASKAR DUTTA
SENIOR ADVOCATE
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 22.01.2026

1. Heard Mr. Bhaskar Dutta, learned Senior Counsel assisted by Mr. S. Deka, learned counsel for the applicants. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State of Assam.

2. This is an application filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for suspension of sentence and for releasing the applicants on bail.

3. One person was allegedly assaulted by the petitioner; he was rescued by Police and was taken to the Police Station. His condition deteriorated and therefore he was sent to the Hospital, where he died. The doctor, who performed the Postmortem examination of the dead body has stated in his evidence that the deceased was brought dead to the Hospital. No inquest was done upon the dead body of the deceased.

4. The Investigating Officer did not register a case on the day of occurrence,

after the death of the deceased the case was registered. The police has stated in his evidence that this is not known that who took the deceased to the Hospital.

5. Learned Additional Public Prosecutor has objected to this Petition on the ground that there are some eye witnesses, who has supported the prosecution case of assault upon the deceased and has relied upon a Judgment of the Hon'ble Supreme Court that was delivered in "***Omprakash Sahani v. Jai Shankar Chaudhary & Anr. Reported in 2023 LiveLaw (SC) 389***".

6. I have considered the submissions made by learned counsel for both the side. I have found that there are some materials in the prosecution evidence. Therefore, without expressing any opinion of the merit of the case, the present application is allowed.

7. The sentence imposed upon the applicants by the learned Additional District & Sessions Judge (FTC-2), Tinsukia in Sessions Case No.52 (CH) of 2021 shall remain suspended till disposal of the connected Appeal.

8. The applicants, (1). Manik Biswas, (2). Kiran Biswas, (3). Potoi Biswas, (4). Ratan Biswas and (5). Hemanta Biswas shall be released on bail of Rs.50,000/- each with a surety of like amount to the satisfaction of the learned Additional District & Sessions Judge (FTC-2), Tinsukia.

9. With the aforesaid direction, the I.A. stands disposed of.

JUDGE

Comparing Assistant