

**IN THE COURT OF THE SESSIONS JUDGE ::::::::::: DHUBRI**

**Criminal Revision No.14/2016**

Revisionist : Faizal Hussain,  
S/o. Khadem Ali  
Village Pokalagi, PS- Tamarhat  
Dist. Dhubri.

- Vs -

Opp. Party Samsul Hoque  
S/o. Sagar Ali, Vill- Pokalagi  
PS. Tamarhat, Dist. Dhubri

Present : Sri Rajib Goswami, AJS  
Sessions Judge, Dhubri

Sri A. Samad Miah, Advocate for revisionist  
None appeared for the respondent.

Date of Hearing : 01-07-2016

Date of Final Order : 11-07-2016

**ORDER/ J U D G M E N T**

The propriety, legality, correctness and regularity are questioned in this revision preferred in respect of an order dated 27-12-2015 passed by learned Judicial Magistrate, 1<sup>st</sup> Class, Dhubri on a bail petition U/s.437 of Cr.PC. in G.R. Case No.5943/2015 in connection with Tamarhat P.S. Case No.376/2015 u/s.147/148/447/448/384/341/325/326/323 of IPC.

2. The revision was admitted for hearing. The LCR was called for and the Notice was issued to the respondent.

3. The revision petitioner's case in brief is that the revision petitioner Fozel Hussain had lodged the FIR at Tamarhat Police Station alleging inter alia that on 25-12-2015 about 5 a.m. Accused Samsul Hoque and others had entered into his house and had badly assaulted the revision petitioner, his father, his wife, his younger brother and his sister-in-law. As a result of which they had sustained grievous injuries and thereafter those accused persons had taken away some land

documents, Rs.35,000/- in cash and one mobile phone. They had been saved at the timely intervention of the villagers. The perpetrator of the alleged assault on them had been arrested by the police and he was sent to jail custody on 25-12-2015. JMFC, Dhubri had allowed the present respondent, Samsul Hoque to go on bail. Which according to revision petitioner was illegal.

Heard learned advocates for both sides.

4. I have gone through the order of learned trial Court. Having gone through the order of trial Court dated 27-12-2015, I find that the bail had been allowed on the basis of injury report of the victims, not disclosing an offence u/s.326 of IPC and remaining all offences registered against the accused were bailable, except Sec. 384 of IPC. The learned trial Court after consultation of the case diary had come to his findings that materials collected by the I.O. had revealed that there was previous enmity between accused persons and informant. There had been allegations and counter allegations having been made by both parties against each other earlier . The present accused Samsul Hoque had also filed a case against the informant, the present revision petitioner prior to the present case and in the order of the learned trial Court it was held that the present accused being a Asstt. teacher and allegations had not been directed at the present accused only but against other accused also and as such the bail was allowed.

5. Now primary ground for revision is that the bail had been allowed by learned JMFC without consulting the case diary and the injury report knowing very well that the offence alleged was u/s.326 of IPC, the punishment provided for the said offence is life imprisonment.

6. Having gone through the order of learned Court below. Ld. Court below appears to have consulted the injury report before passing the order granting bail to the present respondent after finding that the injuries reported to have been sustained by the victims in the

case filed by the present revision petitioner were simple injury caused by blunt object and in view of the injury report there was no prima facie case in respect of the offence u/s.326 of IPC and as such the bail prayer was allowed and I find no illegality in the above order of bail allowed to the present respondent by JMFC. The ground on which the present revision had been filed with regard to bail allowed to the present respondent in view of Sec.326 of IPC, registered against the respondent being illegal is not apparent on the face of the learned JMFC. The revision accordingly stands dismissed.

11. Send back the L.C.R. along with the copy of the order to the Id. Lower Court.

Given under my hand and seal of this Court on this 11<sup>th</sup> day of July, 2016.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri