

GAHC010002622023



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

Case No. : AB/25/2023

SMTI BINITA SONARI @ BINITA BISWAKARMA AND ANR
W/O SRI SARKEY BISWAKARMA VILL-LALPUKHURI, MODHUPUR, P.S.-
BEHALI, PIN-784166, DIST-BISWANATH

2: SMTI RUPA BISWAKARMA
W/O SRI SONTE BISWAKARMA
VILL-LALPUKHURI
MODHUPUR
P.S.-BEHALI
PIN-784166
DIST-BISWANATH

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M PATHAK

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

Date : 18-01-2023

Heard Mr. M. Pathak, learned counsel for the applicants. Also heard Ms. N. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 438 of the Code of Criminal Procedure, 1973, for grant of pre-arrest bail to the accused/applicants, who are apprehending arrest in connection with Behali P.S. Case No. 87/2022, registered under Section 447/323/365/427/34 of the Indian Penal Code.

Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the applicants, Mr. J. Islam, that the applicants are innocent and they are not at all involved in abduction of the missing victim. The applicants and victim's families are relatives and there was a simple quarrel between the parties. It is also submitted that the present applicants are woman and the husband of the applicant No.2 has already been arrested in connection with this case. Further it is also submitted that the three accused persons were already been arrested in connection with this case, and hence custodial interrogation of the present applicants are not required and accordingly prays for pre-arrest bail, and also states that the applicants shall co-operate with the investigation of this case, if, they are granted the privilege of interim pre-arrest bail.

In this context, Ms. Das, learned Additional Public Prosecutor has

submitted that the missing victim is not yet been recovered and till date no evidence is found by the IO for her recovery. She also submitted that there was a quarrel between the parties, as revealed in the Case Diary and hence probability of abduction of the victim by the accused persons cannot be denied and hence the custodial interrogation of the present applicants may be necessary here in this case and accordingly raised objections in the prayer made by the applicants.

After hearing the submissions of learned counsels for both sides and also perusing the case diary, it is seen that the incident occurred on 14.12.2022, and till date the victim could not be recovered by the IO and in the same time it is also noted that the IO have collected some mobile/contact Nos. and the C.D.R. analysis has already been done for some but further C.D.R. analysis is yet to be completed and hence custodial interrogation of the three applicants may be necessary.

Considering the nature and gravity of the offence and also considering the fact that the missing victim is not yet been recovered, I find that the further custodial interrogation may be necessary herein this case for proper investigation. Thus, I do not find it appropriate to grant the privilege of pre-arrest bail to both the applicants and hence, the Anticipatory Bail filed by the present applicants is hereby rejected at this stage.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant