

GAHC010035642023



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

Case No. : AB/566/2023

LAKHYADHAR BHARALI AND ANR
S/O SRI JADAV BHARALI
R/O NABAKIRAN APARTMENT,
NABAGIRI ROAD, GEETANAGAR, GUWAHATI, KAMRUP (M), ASSAM

2: SRI GAUTAM KUMAR PRADHAN
S/O LATE OM PRAKASH PRADHAN
C/O BHUPENDRA NATH DAS
HOUSE NO. 42
CHANDRA CHOUDHURY PATH
BELTOLA

GUWAHATI
KAMRUP (M)
ASSAM
PIN-78102

VERSUS

THE STATE OF ASSAM
REP. BY THE PP ASSAM

Advocate for the Petitioner : MR. R DUBEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

07-06-2023

Heard Mr. R. Dubey, learned counsel for the petitioners and Mr. M. P. Goswami, learned Additional Public Prosecutor, Assam for the State.

By this application under Section 438 CrPC, the petitioners namely, **1) Sri Lakhyadhar Bharali** and **2) Sri Gautam Kumar Pradhan** apprehending their arrest are seeking pre-arrest bail in Dispur P.S. Case No.257/2023 registered under Section 406 IPC corresponding to G.R. No.1006/2023.

Pursuant to the order dated 22.02.2023, passed earlier in this proceeding, both the petitioners are on interim bail in said Dispur P.S. Case No.257/2023.

As per the FIR of the case, petitioner told that he is the owner of 8 Bighas 13 Lechas of land, covered by Dag No.236 of K. P. Patta No.291 at revenue village Parli, Mouza-Sayani, District-Kamrup, Assam and owner of M/s. Gupta Hardware Private Limited of Rajendra Kumar Gupta showed his willingness to purchase 3 Bighas of land of the petitioner No.1. In that regard it is alleged that the owner of the said shop handed over Rs.4,00,000 in advance in presence of the informant and some other witnesses.

As the said land was not sold nor the said amount of Rs.4,00,000/- that was given to the petitioner No.1 on 10.10.2021 was not returned, the informant lodged the FIR on 07.02.2023 which was accordingly registered as Dispur P.S. Case No.257/2023 against both the petitioners.

Pursuant to the interim bail granted to both the petitioners on 22.02.2023, they appeared before the concerned Investigating Officer of the case and their statements have been recorded.

From the case diary, it is seen that the petitioner No.1 is the tenant of a shop at Shopping Bazar/Amar Bazar at Rajgarh Road that belongs to the owner of the Gupta Hardware Private Limited on whose behalf, the informant lodged the FIR pertaining said Dispur P.S. Case No.257/2023.

Since, the petitioners have appeared before the concerned I.O. of the case, the Court is of the view that custodial detention of the petitioners is not warranted to investigate said Dispur P.S.

Case No.257/2023. Accordingly, this pre-arrest bail application of the petitioners, named above, in said Dispur P.S. Case No.257/2023 is accepted.

The petitioners namely, **1) Sri Lakhyadhar Bharali** and **2) Sri Gautam Kumar Pradhan** are already on interim bail in said Dispur P.S. Case No.257/2023 granted to them earlier on 22.02.2023 and the same is hereby made absolute on the terms and conditions that the petitioners shall - **(i)** appear before the Investigating Officer of Dispur P.S. Case No.257/2023, as and when they are required for necessary investigation of said Dispur P.S. Case; **(ii)** not leave the territorial jurisdiction of the Dispur police station, without obtaining prior written permission from the concerned Investigating Officer of the case; **(iii)** not hamper with the investigation, or tamper with the evidence of the case and **(iv)** not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

Further, it is made clear that the petitioners shall not threatened Rajendra Kumar Gupta owner of the shop namely, M/s. Gupta Hardware Private Limited.

With the above observation and directions, this pre-arrest bail application accordingly stands allowed to the extent above.

Return the case diary.

JUDGE

Comparing Assistant