

GAHC010040852023



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

Case No. : AB/617/2023

LAKSHMI RAM BORAH @ LAKHI BORAH AND ANR
S/O LATE AKAN CH. BORAH, R/O DAKHIN SARBAIBANDHA, P.S.-JORHAT,
DIST-JORHAT, ASSAM, PIN-785631

2: JYOTI PRASAD BORAH
S/O LAKSHMI RAM BORAH
R/O DAKHIN SARBAIBANDHA
P.S.-JORHAT
DIST-JORHAT
ASSAM
PIN-78563

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. D BORAH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 28-03-2023

Heard Mr. D. Borah, learned counsel for the petitioners. Also heard Mr. K. K. 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/petitioners, who are apprehending arrest in connection with Jorhat P.S. Case No. 89/2023, registered under Sections 325/336/294/354/506/379/34 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 petitioners, Mr. D. Borah that the allegations made in the FIR against the present petitioners are false and concocted one. A brief fact of the case is that the informant's family has been harassing the petitioner's family over the boundary dispute since long back. Hence, the informants' family always threatened them and they are always searching a chance to quarrel with them without any reasons. Even on the day of the incident, some quarrel took place between them regarding chasing the informant's dog, and for which reason the present petitioner sustained injury too. It is also submitted that the accused/petitioners have already appeared before the IO, as well as recorded their statement under Section 161 Cr.P.C., and also they are still ready to co-operate with the same. Further, the petitioners pray for making the interim bail as absolute and there are no

chances of absconding or hampering or tempering of this case, if the same is made absolute.

In this context, Mr. K. K. Das, learned Additional Public Prosecutor has submitted that the accused/petitioners have already appeared before the IO and also recorded their statement. From the perusal of the case diary, it is seen that the dispute between the parties occurred only because of the pet dog and there is no materials to make out a case under Section 379/354 IPC. The petitioner is co-operating with the IO in the investigation of this case, and accordingly raised no objections in the prayer made by the petitioners.

After hearing the submissions of learned counsels for both sides and also considering the materials available in the Case Diary, as well as considering the fact that the accused/petitioners have appeared before the IO and co-operated with the investigation of this case, thus, I find that custodial interrogation may not be necessary here in this instant case. I find it appropriate to extend the privilege of pre-arrest bail to the petitioners, namely, Shri. Lakshmi Ram Borah @ Lakhi Borah and Shri. Jyoti Prasad Borah. Thus, the order passed by this Court dated 28.02.2023, in connection with Jorhat P.S. Case No.89/2023, under Sections 325/336/294/354/506/379/34 of the Indian Penal Code is hereby made absolute subject to the following conditions:

- (i) that the applicant shall make themselves available for interrogation by the Investigating Officer as and when required.
- (ii) that the applicant shall 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; and

(iii) that the applicant shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

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

The Case Diary be sent back.

JUDGE

Comparing Assistant