

GAHC010060872023



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

Case No. : AB/1008/2023

SUBODH SHARMA AND 5 ORS.

S/O- SHYAM SUNDAR SHARMA, R/O- BAMUNIMAIDAM, RAILWAY
COLONY, P.S. GEETANAGAR, DIST. KAMRUP(M), ASSAM

2: JAGANATH CHOUDHURY

S/O- LATE DEBRAJ CHOUDHURY

R/O- CHUNCALI

NOONMATI

P.S. NOONMATI

DIST. KAMRUP(M)

ASSAM

3: DILIP CHOUDHURY

S/O- LATE RAMU CHOUDHURY

R/O- CHUNCALI

NOONMATI

P.S. NOONMATI

DIST. KAMRUP(M)

ASSAM

4: RAJKUMAR PRASAD

S/O- LATE CHANDRIKA PRASAD

R/O- CHUNCALI

NOONMATI

P.S. NOONMATI

DIST. KAMRUP(M)

ASSAM

5: RABINDRA SAHANI

S/O- SRI LAKSHMI NARAYAN SAHANI

R/O- CHUNCALI

NOONMATI

P.S. NOONMATI

DIST. KAMRUP(M)

ASSAM

6: JUNU SHARMA
S/O- LATE GOPI SARMA
R/O- CHUNCALI
NOONMATI
P.S. NOONMATI
DIST. KAMRUP(M)
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. C K NATH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 29-03-2023

- 1.** Heard Mr. S. Munir, learned counsel for the petitioners and Mr. B.B. Gogoi, learned Addl. P.P. for the State.
- 2.** The petitioners namely, [1] Subodh Sharma [2] Jaganath Choudhury [3] Dilip Choudhury [4] Rajkumar Prasad [5] Rabindra Sahani and [6] Junu Sharma have filed an application under Section 438 Cr.PC with prayer for pre-arrest bail in connection with Noonmati P.S. Case No. 82/2023 under Sections 467/506/34 IPC.
- 3.** The petitioners have also filed an IA stating that relating to the land a Title Suit has been initiated in the Court of the Munsiff No. 2, Kamrup (M) being T.S. No. 134/2023.
- 4.** I have perused the order dated 20.03.2023 passed by the Munsiff No. 2. The order is marked as Annexure-5.

5. I have considered the submissions at the Bar and I have also perused the Case Diary. The FIR unfolds that the informant's sister Anju Kumari Rai sold 12 lesa of land out of their parental property in connivance with the President of Chunchali River Bank Development Committee namely, Rabindra Chahani and others namely, Baloram Das, Dilip Choudhury, Jagannath Choudhury, Junu Sharma and Rajkumar Prasad. At present Rabindra Chahani and Dilip Choudhury are forcefully occupying the informant's land in the Chunchali area.

6. It is submitted that the petitioners act like land mafia and they have even threatened the informant with dire-consequences. They have also threatened that the informant's 12 lesa land has been taken over by them and they will take over the entire land belonging to the informant and so on and so forth. It is submitted at the Bar that the statements of the witnesses clearly depict that the informant's sister Anju Kumari Rai sold 12 lesa of land to the petitioner No. 1. It is alleged that no case under Section 467 IPC can be made out because there is no allegation of any forgery of documents.

7. I have also perused the Case Diary. There is no allegation of forgery of any documents even in the FIR.

8. In view of my foregoing discussions, petition is allowed. In the event of their arrest, the petitioners shall be enlarged on bail of Rs. 30,000/- each with a suitable surety of like amount to the satisfaction of the arresting authority under the conditions that –

- i. the petitioners will appear before the IO within 10 (ten) days and cooperate with the investigation; and
- ii. the petitioners will not exercise threats to witnesses.

Send back the Case Diary.

JUDGE

Comparing Assistant