

GAHC010068832022



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

Case No. : AB/988/2022

DHANANJAY PRATAP SINGH AND ANR
S/O MAHARANA PRATAP SINGH
BY FAITH AND RELIGION- HINDU, BY PROFESSION- BUSINESSMAN,
PERMANENT RESIDENT OF B.B.C COLONY, RAILWAY QUARTER NO. 80/A,
P.O. PANDU, P.S. JALUKBARI, IN THE DISTRICT OF KAMRUP (M), AT
GUWAHATI-781012, ASSAM

2: SRI DIGVIJAY PRATAP SINGH
S/O MAHARANA PRATAP SINGH
BY FAITH AND RELIGION- HINDU
BY PROFESSION- BUSINESSMAN
PERMANENT RESIDENT OF FLAT NO. D-5 SANTI NIWAS
BLOCK -i
5TH FLOOR
NORTH JALUKBARI
PO. AND P.S. JALUKBARI
IN THE DIST. OF KAMRUP (M)
AT GUWAHATI-781012
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, GOVT. OF ASSAM

Advocate for the Petitioner : MR. V UPADHYAY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

17.01.2023

Heard Ms. T. Mishra, learned counsel for the applicants and Mr. B.B. Gogoi, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in connection with Sonapur PS Case No. 44/2021, under sections 120[B]/379/411 of the IPC read with section 21[4] of the Mines and Minerals Act, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicant, namely, Sri Dhananjay Pratap Singh and Sri Digvijay Pratap Singh for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by SI Bhupendra Rawat, on 08.02.2022 to the effect that acting on a tip off he has intercepted 3 numbers of Trucks, loaded with coal, which were standing in the service lane at Medhikuchi village, under Sonapur PS, bearing registration No. AS-01-KC-6188; AS-01-NC-2688; and MH-12-TR-DVK-854. On being asked, the driver of the vehicles have failed to produce any documents of the coals.

4. Ms. Mishra, learned counsel for the applicants submits that pursuant to the order of this court dated 06.04.2022, the applicant appeared before the IO and his statement is recorded he has been co-operating with the Investigating Agency, and therefore, it is contended to make the interim order, dated 06.04.2022, absolute in the same terms and conditions.

5. On the other Mr. Gogoi, learned Addl. P.P. submits that though several

reminders were issued to the IO concerned, he has not received the case diary, yet.

6. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record. And it appears that this anticipatory bail application was filed on 04.04.2022 and interim was granted to the applicants on 06.04.2022 and since then the case diary has not been received. Mr. Gogoi, learned Addl. P.P. also submits that the same has received earlier and sent the same back to the IO for updating the same, but thereafter, the same has not yet been received.

7. It is to be noted here that in the case of **Satinder Kumar Antil vs. Central Bureau of Investigation**, reported in **2022 Live Law SC 577**, in paragraph No. 73[k], the Hon'ble Supreme Court has held that bail application ought to be disposed of within a period of 2 weeks, except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are accepted to be disposed of within a period of 6 weeks, with the exception of any intervening application. Here in this case more than 8 months have been granted to the prosecution side to produce the case diary before this court, but the prosecution side has failed to produce the same, for which this application could not be disposed of.

8. Ms. Mishra, learned counsel for the applicants further submits that the petitioners are the owner of 2 numbers of Trucks and the co-accused has already been granted the privilege of anticipatory bail and the present applicants are also stands in the same footing.

9. Having considered above and also having considered the observation made by the Hon'ble Supreme Court in the case of **Satinder Kumar Antil** [supra] this court is of the view that custodial interrogation of the applicants are unwarranted in the interest of investigation and since the applicants have been co-operating with the investigating agency, this court is inclined to make the interim order dated 06.04.2022 absolute in the same terms and condition.

10. In terms of above this AB stands disposed of.

JUDGE

Comparing Assistant