

GAHC010124862022



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

Case No. : AB/1749/2022

BALWAN BHAM AND ANR
S/O. LT. MONOHAR LAL BHAMA,

2: YOUDHISTRA BHAMA
S/O. SRI BALWAN BHAMA
BOTH R/O. HOUSE NO. 35-A
BONGAON NEAR INCOME TAX RESIDENTIAL COLONY
BELTOLA
P.S. BASISTHA
PIN-781022
DIST. KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. S H ZAMAN
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.09.2023

Heard Mr. A. Ahmed, learned counsel for the applicants and Mr. P. Borthakur, learned Addl. P.P. for the State respondent.

2. Apprehending arrest in connection with **Basistha PS Case No.**

207/2022, under Sections 120[B]/468/471/420 of the IPC, which was later on transferred to BI [EO] PS Case No. 03/2023. this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants, namely, **Sri Balwan Bham and Sri Youdhistra Bhama** for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by one M. Hussain, on 14.02.2022. The essence of allegations made in the FIR is that one Dharambir Singh, the proprietor of M/s Bittu Coal Traders in connivance with M/s Jai Maa Coal Pvt. Ltd. where Sri Youdhistra Bhama is one of the directors and M/s Vaishno Devi Traders Pvt. Ltd. where Sri Balwan Bhama is one of the directors have repared fake bill trading [sales] and thereby evaded tax.

4. Mr. Ahmed, learned counsel for the applicants submits that pursuant to the order of this court dated 23.06.2022, the applicants have appeared before the IO and their statements are recorded and that they have been co-operating with the Investigating Agency and, therefore, contended to make the interim order, dated 23.06.2022, absolute in the same terms and conditions. Mr. Ahmed further submits that the applicants have filed another petition, under Section 482 of the Cr.P.C., for quashing the FIR dated 14.02.2022, and this Court was pleased to stay the further investigation of the case, vide order dated 25.07.2022, in Criminal Petition No. 693/2022.

5. On the other Mr. Borthakur, learned Addl. P.P. by producing the case diary before this court, submits that the further investigation of the case has stayed by this Court, in Criminal Petition No. 693/2022.

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 also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

7. Having regards to above and also having heard the submission of learned counsel for both the parties and also considering the facts and circumstances on the record and the nature of accusation and the punishment prescribed for the same this court is of the view that custodial interrogation of the applicants seems to be unwarranted in this case and therefore, this court is inclined to make the interim order dated **23.06.2022**, absolute in the same terms and condition.

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

9. The case diary be returned.

JUDGE

Comparing Assistant