

GAHC010127202023



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

Case No. : AB/2107/2023

ARIJIT SAIKIA AND ANR.
SON OF LATE BIJIT SAIKIA
R/O HOUSE NO. 3,
18TH EAST BYLANE, SUNDERPUR, P.S. DISPUR,
DIST. KAMRUP (METRO), GUWAHATI-781005, ASSAM

2: MANASHREE DAS SAIKIA
D/O KAMAL CHANDRA DAS
W/O ARIJIT SAIKIA
R/O HOUSE NO. 3
18TH EAST BYLANE
SUNDERPUR
P.S. DISPUR
DIST. KAMRUP (M)
GUWAHATI-781005
ASSAM

VERSUS

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

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

04.08.2023.

Heard Mr. S.M. Abdullah P., learned counsel for the applicants and also heard Mr. R.R. Kaushik, learned Addl. P.P., Assam for the State respondent.

2. This application under section 438 of the Code of Criminal Procedure, 1973 is preferred by two applicants, namely, Arijit Saikia and Manashree Das Saikia, who have been apprehending arrest in connection with Dispur P.S. Case No. 1336/2022, registered under sections 120(B)/409/406/467 /468/471/419/420 of the IPC, for grant of pre arrest bail.

3. The said case been registered on the basis of an FIR lodged by one Dhritiman Saikia, on 02.06.2022, to the effect that accused Arijit Saikia and his wife Manashree Das Saikia have forged his and his father's signature and prepared fake documents and produced the same before the Assam Gramin Vikash Bank, Ganeshguri branch Guwahati and fraudulently taken loan for a sum of Rs. 25,00,000/- in the name of M/S D.S. Enterprise, of which the informant is the proprietor and thereafter failed to return the loan amount to the said Bank.

4. Mr. Abdullah, learned counsel for the applicants submits that this is the second anticipatory bail application, filed on the ground that material part of the investigation is almost over and the relevant documents have been seized by the I.O. and also the land involved in this case has already been auctioned by the Bank and the amount has been recovered by the Bank. Mr. Abdullah further submits that in the previous anticipatory bail application i.e. in AB No. 2336/2022, the applicants were granted interim protection and thereafter, they have appeared before the Police and their statements were also recorded by the I.O. and subsequently, after perusing the case diary, this Court was pleased to dismiss the petition. Mr. Abdullah also submits that the dispute is between two

brothers and that custodial interrogation of the applicants may not be required in the interest of investigation of the case and the applicants are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, Mr. R.R. Kaushik, learned Addl. P.P., Assam, by producing the case diary before this Court submits that the I.O. has achieved substantial progress in the investigation and he has seized as many as 34 documents in connection with the case and also examined several witnesses and the investigation of the case is in the last stage. However Mr. Kaushik submits that there is prima face materials against the applicants to indicated their involvement with the offence alleged and as directed by this Court on 31.07.2023, he could not obtained such instruction from the I.O., as on that date another Addl. P.P. were appeared before this Court.

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, produced before the Court by the learned Addl. P.P., Assam.

7. It appears that the I.O. has achieved substantial progress in the investigation of the case and it also appears that the investigation is at the last stage. Moreover, it appears that the date of registration of the FIR, till date, the I.O. has got sufficient time for investigation of the case.

8. Having considered the materials collected in the case diary and also considering the submission of learned counsels for both sides, this Court is left unimpressed that custodial interrogation of the applicants are required in the interest of investigation and therefore, this Court is inclined to allow this

petition.

9. Accordingly, it is provided that in the event of arrest of the applicants, namely, Arijit Saikia and Manashree Das Saikia, in connection with Dispur P.S. Case No. 1336/2022, registered under sections 120(B)/409/406/467 / 468/471/419/420 of the IPC, they shall be enlarged on pre-arrest bail, on their executing a bond of Rs.1,00,000/- (Rupees one lakh) only with one surety of like amount, to the satisfaction of the arresting authority.

The above privilege is, however, subject to the following conditions:

- (i) that the applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) that the applicants 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 him from disclosing such facts to the Court or to any police officer; and
- (iii) that the applicants shall not leave the jurisdiction of the learned CJM, Kamrup (M) at Guwahati, without prior permission.

10. With the above direction, this bail petition stands allowed. The case diary be returned.

JUDGE

Comparing Assistant