

GAHC010142562023



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

Case No. : AB/2285/2023

SAMBHU @ BAPPI DEY AND 2 ORS
S/O PHANI DEY
R/O H NO. 12,
SANKAR DEV PATH, P.O. AND P.S. FATASIL AMBARI, KAMRUP (M), ASSAM

2: BIKI DEY
S/O PHANI DEY
R/O H NO. 12

SANKAR DEV PATH
P.O. AND P.S. FATASIL AMBARI
KAMRUP (M)
ASSAM

3: RAJA DEY
S/O PHANI DEY
R/O H NO. 12

SANKAR DEV PATH
P.O. AND P.S. FATASIL AMBARI
KAMRUP (M)
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S SAHU

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 19.07.2023

Heard Mr. S. Sahu, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State.

This anticipatory bail application has been preferred under Section 438 of Code of Criminal Procedure, 1973, by the present petitioners, namely, (1) Sambhu @ Bappi Dey, (2) Biki Dey, and (3) Raja Dey, praying for grant of pre-arrest bail to the petitioners, who are apprehending arrest in connection with Fatasil Ambari P.S. Case No. 125/2023 registered under Sections 341/342/294/506/325/307/34 of the IPC.

The accusation in this case is that on 08.06.2023, one Smti Kalpana Das lodged an FIR before the Officer In-charge, Fatasil Ambari Police Station, inter-alia, alleging that on 07.06.2023, when the husband of the first informant along with her daughter and nephew were coming from their residence in a car, the accused persons including the preset petitioners assaulted them and in the said assault one Tulan Das and one Sadhan Das sustained injury.

On the receipt of the said FIR, Fatasil Ambari P.S. Case No. 125/2023 was registered.

Learned counsel for the petitioner submits that there was an altercation with Ashok Kumar Dey and the injured persons however the present petitioners are not involved in any manner in the instant case.

On the other hand, learned Additional Public Prosecutor has placed on record the case diary which was called for in connection with this case and has

submitted that there are incriminating materials against the petitioner no.2, Biki Dey in the case diary. However, against the petitioner no. 1 Sambhu @ Bappi Dey and petitioner no. 3 Raja Dey, no incriminating materials is presently available in the case diary.

Considering the submission made by learned counsel for both sides as well as considering the materials in the case diary, the prayer for anticipatory bail of petitioner no.2, Biki Dey is hereby rejected.

However, the other two petitioners, namely, petitioner no. 1 Sambhu @ Bappi Dey and petitioner no. 3 Raja Dey are hereby directed to appear before Investigating Officer of Fatasil Ambari P.S. Case No. 125/2023 within a period of ten days from the date of this order, if they do so within the stipulated period of time, in the event of their arrest in connection with Fatasil Ambari P.S. Case No. 125/2023, both the petitioners, namely, petitioner no. 1 Sambhu @ Bappi Dey and petitioner no. 3 Raja Dey shall be allowed to go on bail on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) each with one surety of like amount to the satisfaction of the arresting authority subject to the following condition that:

1. That the petitioner no. 1 and petitioner no. 3 shall continue to co-operate with the Investigating Officer of this case.
2. The petitioner no. 1 and petitioner no. 3 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 or her from disclosing such facts to the Trial court.

With the above observations, this anticipatory bail application is accordingly disposed of.

Let the case diary be sent back.

JUDGE

Comparing Assistant