

GAHC010172542023



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

Case No. : AB/2781/2023

BISWAJIT BURAGOHAIN AND 4 ORS.
S/O LATE SIDDHESWAR BURAGOHAIN
R/O VILL- PIRAKATA GOHAIN GAON
P.O. PIRAKATA,P.S. TEOK, JORHAT

2: SRI TAPAN MISHRA
S/O LATE SUNIL KUMAR MISHRA
R/O RAJABARI MISSION COMPOUND
P.O.
P.S. AND DIST. JORHAT
ASSAM

3: SRI JAYANTAJIT BORKOTOKY
S/O SRI NALINI BORKOTOKY
R/O SOUTH SARBAIBONDHA
P.O.
P.S. AND DIST. JORHAT
ASSAM

4: SRI RANJAN BHUYAN
S/O LATE JITEN BHUYAN
R/O USHAPUR GAON
P.O. USHAPUR
P.S.JAIPUR
DIST. DIBRUGARH
PRESENTLY RESIDING AT PRAG NEWS OFFICE
OPPOSITE TARAJAN MASJID
P.O.
P.S. AND DIST. JORHAT
ASSAM

5: SRI UTPAL BORAH
S/O SRI ATUL CHANDRA BORAH
R/O ASHAIBARI GAON

P.O. CHOWTANG
P.S. JORHAT

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. D SARMAH

Advocate for the Respondent : PP, ASSAM

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

15.09.2023

Heard Mr. Z. Kamar, learned Senior Counsel assisted by Mr. D. Sarma, learned counsel for the applicants; Mr. K.K. Parasar, learned Addl. P.P. for the State respondent; and Ms. B. Choudhury, learned counsel for the informant.

2. Apprehending arrest in connection with **Jorhat PS Case No. 359/2023**, under Sections 120[B]/ 341/ 452/ 354/ 354[A]/ 354[B]/ 500/ 385/ 506/ 34 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants, namely, **Sri Biswajit Buragohain; Sri Tapan Mishra; Sri Jayantajit Borkotoky; Sri Ranjan Bhuyan; and Sri Utpal Borah** for grant of pre-arrest bail.

3. The said case has been registered on the basis of an FIR lodged by two informants, Smti 'X' and 'Y' [name withheld] on 14.07.2023. The essence of allegations made in the FIR is that on 09.07.2023, at about 11 pm, they went to the house of one Sanjib Baishya at Malow Ali, Jorhat and then some people, who were around the road, have trespassed into the residence of Sanjib Baishya and shouted on them that they have been destroying the social environment.

Thereafter, they have been taken to the police station in police vehicle and thereafter, they were allowed to go home. But, on 10.07.2023, they have found some video posted on social media by some news portal and on the next day they went to the Jorhat Police Station and then one reporter of Prag News came to them at the police station and threatened and blackmail them to settle the matter by giving money and call them to Prag News office to negotiate the terms of money and threatened them that he has in possession of their several videos and of other girls and if they will not agree to his demand, he will telecast the video on Prag News. As they refused to give money they have again telecasted the video through Prag News by Sri Utpal Borah and thereby their image has been tarnished.

4. Mr. Kamar, learned Senior Counsel appearing for the applicants submits that pursuant to the order of this court dated 10.08.2023, the applicants have appeared before the IO and their statements have been recorded and they have been co-operating with the Investigating Agency and, therefore, it is contended to make the interim order, dated 10.08.2023, absolute in the same terms and conditions.

5. On the other Mr. Parasar, learned Addl. P.P., by producing the case diary before this court, has opposed the prayer in respect of the applicant No. 3, Sri Jayantajit Borkotoky and the applicant No. 5, Sri Utpal Borah, as the IO has collected sufficient incriminating materials against both the applicants. Mr. Parasar further submits that in respect of rest of the applicants, the materials so collected in the case diary are insufficient.

6. On the other hand Ms. Choudhury, learned counsel for the informant has vehemently opposed the petition and submits that the applicant No. 5 is a habitual offender and some cases are pending against him and that custodial interrogation of the applicants are required in the interest of investigation and therefore, it is contended to dismiss the petition.

7. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition as well as the documents placed on record and also perused the Case Diary with the assistance of learned Additional Public Prosecutor.

8. It appears from the case diary that the materials so collected in the case diary are inadequate to show the complicity of the applicant Nos. 1; 2; and 4, with the offence alleged in the FIR. besides, they have been cooperating with the investigating agency and therefore, this Court is inclined to allow their prayer and to make their interim order dated **10.08.2023**, absolute in the same terms and conditions.

9. It also appears that the IO has collected some materials in support of applicant No. 3, Sri Jayantajit Borkotoky and applicant No. 5, Uptal Borah. But, it appears that they have appeared before the IO and their statements have also been recorded and they have been cooperating with the investigating agency and there is nothing in the case diary to show misusing of liberty so granted to them vide order dated 10.08.2023. Further, it appears that the IO has achieved substantial progress in the investigation.

10. In view of above, this Court is of the view that their custodial interrogation also seems to be not warranted, in the interest of investigation. Accordingly, in interim order dated **10.08.2023**, in respect of applicant No. 3, Sri Jayantajit Borkotoky and applicant No. 5, Sri Utpal Borah, also hereby made absolute, in the same terms and conditions.

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

11. The case diary be returned.

JUDGE

Comparing Assistant