

GAHC010172962023



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

Case No. : AB/2749/2023

MADHUJYA BORAH AND ANR
SON OF SRI SUREN BORAH, R/O- AMTOL GAON, P.O. AMTOL, P.S.
BHOGAMUKH, DIST.- JORHAT, ASSAM, PIN- 785682

2: SRI PRANJAL BORAH @ KAKU BORAH
SON OF SRI SUREN BORAH
R/O- AMTOL GAON
P.O. AMTOL
P.S. BHOGAMUKH
DIST.- JORHAT
ASSAM
PIN- 78568

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

2:HODOU ASOM DURNITY NIBAROK PROKRITI SURAKSHA SAMITEE
JORHAT DISTRICT COMMITTEE
PH. NO. 785202085

Advocate for the Petitioner : MR. C BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

21. 08. 2023

Heard Mr. C Baruah, learned counsel for the petitioner. Also heard Mr. D Das, learned Additional Public Prosecutor, Assam, who has produced the case diary.

2. By this application under Section 438 Cr.P.C., the petitioners, namely, Sri Madhuja Borah and Sri Pranjal Borah @ Kaku Borah are seeking pre-arrest bail in connection with Teok PS case No. 119/2023 under Section 448/387/354B/294/506/34 IPC.
3. The present application was first taken up at motion stage on 08.08.2023, on which date this court called the case diary fixing the matter on 14.08.2023.
4. In the meantime, a communication was sent by one organization called Hodou Asom Durnity Nibarok Prokriti Suraksha Samittee addressing to this court requesting this court not to grant bail to the accused petitioners making certain allegations against the petitioners. Such communication was kept on record and this court under its order dated 14.08.2023 took a prima-facie view that such action on the part of the aforesaid organization is suggestive of an attempt to influence the court's decision. Accordingly, this court under its order dated 14.08.2023 directed the President of the said Organization namely Sri Rajib Sarma to be present before this court and to explain his conduct. This court also requested Mr. NJ Dutta, learned counsel to assist this court in the aforesaid backdrop.
5. Said Rajib Sarma is personally present today and verbally sought an apology and submitted that due to lack of knowledge of legal proceedings the aforesaid letter was directly addressed to the court.
6. Mr. Dutta while assisting the court has submitted that the grant or refusal

of bail lies within the discretion of the court and such discretion is regulated to a large extent by the fact and circumstances of the each cases and the conduct of the organization amounts to a obstruction to delivery of justice and admittedly, Mr. Sarma has written the communication to the court directly after knowing it that matter is taken by this court.

7. This court is also of the view that such attitude and conduct of the organization is an utter disregard to the process of the court. This court is of the view that such communication has been sent either to create a situation to this court to compel to recuse from taking up this matter or to influence the decision inasmuch as if at all the aforesaid organization is having any grievance they can file proper application permissible under law and not in the manner as discussed herein.
8. Though this court is inclined to impose a cost upon the organization for its conduct, however, considering the apology sought by the President as well as the considering his submission that such action of writing a letter was done for lack of knowledge of the court proceeding, this court restrain itself to proceed further in this regard with a caution to the organization including Mr. Sarma not to indulge in such activity.
9. Now coming to the bail petition, this court has perused the material available on record including the statement of the eye witnesses and other persons available in the case diary, which discloses that the petitioner No. 1 has seriously been implicated in connection with the offences. It has also been disclosed from the case diary that the petitioner No. 1 is journalist and there is history of such allegation of demand of money giving threat of publishing adverse news against different persons.

10. Considering the material so far collected by the investigating officer and the stage of investigation, this court is of the view that this is not a fit case to grant privilege of pre-arrest bail to the petitioner No. 1, Sri Madhuja Borah.
11. However, considering the material available on record including material available in the case diary, this court is of the considered view that no custodial interrogation is required in case of the petitioner No. 2.
12. Accordingly, prayer for pre-arrest bail to the petitioner No.1, Madhuja Borah is rejected. However, prayer for pre-arrest bail to the petitioner No. 2 is granted. Accordingly, in the event of arrest of the petitioner No. 2, Sri Pranjal Borah @ Kaku Borah above named, in connection with the case aforementioned, he shall be released on bail on furnishing bail bond of Rs.25,000/- with a suitable surety of the like amount, to the satisfaction of arresting authority. The pre-arrest bail is granted on the following conditions:
 - (1) The petitioner No. 2, Sri Pranjal Borah @ Kaku Borah shall not leave the territorial jurisdiction of the aforesaid police station, without prior written permission from its officer-in-charge,
 - (2) The petitioner No. 2, Sri Pranjal Borah @ Kaku Borah shall not hamper with the investigation, or tamper with the evidence of the case,
 - (3) The petitioner No. 2, Sri Pranjal Borah @ Kaku Borah 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 them from disclosing such facts to the Court or

to any police officer,

(4) The petitioner No. 2, Sri Pranjal Borah @ Kaku Borah shall appear before the Officer-in-charge, Teok PS within 7(seven) days from today,

(5) The petitioner No. 2, Sri Pranjal Borah @ Kaku Borah shall continue to appear before the Investigating Officer of the above mentioned case after every 10(ten) days from the date of first appearance till such time the attendance is dispensed with by the said investigating officer.

JUDGE

Comparing Assistant