

GAHC010177962023



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

Case No. : AB/2821/2023

SAMBHU MAHATU AND 4 ORS.
S/O GANESH MAHATU
R/O WARD NO. 5, MANGALDAI
TOWN, P.O. AND P.S. MANGALDAI, PIN-784125

2: SRI DAYAL DAS
S/O LATE SANSITA DAS
R/O VILL- BARKHOPA
P.S. TAMULPUR
DIST. BAKSA
ASSAM
PIN-781367

3: SRI MANOJ KUMAR
S/O SATYAPAL SINGH
R/O VILL- MAHADEV KUNJ
SANADAL CHAKKAR
SHIMLA PIN-171005
HIMACHAL PRADESH.

4: SRI RABIN CHANDRA BHUYAN
S/O AJAY RAM BHUYAN
R/O VILL- SRIMANTAPUR
P.S. BHANGAGARH
P.O. INDRAPUR
DIST. KAMRUP (M)
ASSAM
PIN-781032

5: SRI MANOJ KUMAR SAHOO
R/O VILL- SRIMANTAPUR
P.S. BHANGAGARH
P.O. INDRAPUR
DIST. KAMRUP (M)
ASSAM
PIN-78103

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H K DAS
Advocate for the Respondent : PP, ASSAM

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

04.10.2023

Heard Mr. N.K. Sarma, learned counsel for the applicants and Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with **Mangaldai PS Case No. 357/2023**, under Sections 153[A]/34 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants namely, **Sri Sambhu Mahatu; Sri Dayal Das; Sri Manoj Kumar; Sri Rabin Chandra Bhuyan; and Sri Manoj Kumar Sahoo** for grant of pre-arrest bail.

3. The said case was registered on the basis of an FIR lodged by SI Takar Pegu, on 31.07.2023. The essence of allegations made in the FIR is that w.e.f. 27.07.2023 to 30.07.2023, under the guidance of Bajrang Party a training program was held at Maharshi Vidya Mandir, where the members of Bajrang Party have

imparted physical and warfare training without obtaining permission from the administration and the program was published through social media and television and which may lead to communal disturbance among the people.

4. Mr. Sarma, learned counsel for the applicants submits that pursuant to the order of this court, dated 11.08.2023, the applicants have appeared before the IO and their statements are recorded and they have been co-operating with the Investigating Agency. Mr. Sarma further submits that only with lathi and arrow was used at the time of training and no arms have been used and no offence under Section 153[A] of the IPC is made out against the applicants from a bare perusal of the FIR and that their names are also finds no mention in the FIR, and therefore, it is contended to make the interim order, dated 11.08.2023, absolute in the same terms and conditions.

5. On the other hand, Mr. Das, learned Additional Public Prosecutor by producing the case diary before this court, submits that only the applicant Nos. 1 and 3 have appeared before the IO and their statements are recorded, but the other applicants have not yet been appeared before the IO. Mr. Das further submits that the IO has achieved substantial progress in the investigation and he has examined good numbers of witness and also arrested some of the co-accused and forwarded them to the 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 with the assistance of learned Additional Public Prosecutor.

7. Having regards to the submissions of learned counsel for both the parties and also considering the fact that the material part of investigation is over and further considering the fact that the applicants have been cooperating with the

investigating agency, their custodial interrogation seems to be unwarranted here in this case, and therefore, this court is inclined to make the interim order dated **11.08.2023**, absolute in the same terms and condition.

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

9. The case diary be returned.

Comparing Assistant

JUDGE