

GAHC010181432023



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

Case No. : AB/2858/2023

SAMARJYOTI DAS @ SAMARENDRA DAS AND ANR
S/O- MAHENDRA DAS, R/O- VILL.- PACHANIA PT-II, P.S. JOGIGHOPA, DIST.
BONGAIGAON, ASSAM

2: BIJAN PATHAK
S/O- DHIREN PATHAK
R/O- VILL.- PACHANIA PT-II
P.S. JOGIGHOPA
DIST. BONGAIGAON
ASSA

VERSUS

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

Advocate for the Petitioner : MR. M I HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER

14.09.2023

Heard Mr. H.R.A. Choudhury, learned Senior counsel assisted by Mr. M.I. Hussain, learned counsel for the applicants and also heard Ms. N. Das, learned Additional Public

Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Abhayapuri P.S. Case No.332/2023, under Section 420 IPC, this application under Section 438 Cr.P.C. is preferred by two applicants, namely, Samarjyoti Das @ Samarendra Das and Bijan Pathak, for grant of pre-arrest bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by one Bikram Ranjan Roy of Bongaigaon on 29.07.2023. The essence of allegation made in the FIR is that the applicants under the guise of a company, in the name and style of – 'Fresenius', deceived innocent individuals and swindle money from them, promising high return on a daily basis, after investment of money in the aforesaid company.

4. Mr. Choudhury, learned Senior counsel for the applicants, submits that the applicants have been extended the privilege of pre-arrest bail by this Court vide order dated 17.08.2023, and pursuant to the said order the applicants have appeared before the I.O. and they have been cooperating with the investigating agency and their custodial interrogation may not be required in the interest of investigation and therefore, it is contended to allow this petition.

5. On the other hand, Ms. N. Das, learned Additional Public Prosecutor has vehemently opposed the petition. Referring to some of the statements of the witnesses recorded by the I.O., Ms. Das submits that they have implicated both the applicants with the offence and that they have collected huge amount of money from the public by alluring and promising them high return and thereafter cheated them.

6. Having heard the submission 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 Ms. Das, learned Additional P.P.

7. It appears from the case diary that the I.O. has collected sufficient incriminating materials against both the applicants. Further it appears that the investigation is still going on. The duped amounts are yet to be recovered and the accomplices are yet to be arrested. And extending the privilege of pre-arrest bail to the applicants at this stage will misdirect the investigation.

8. Under the aforesaid facts and circumstances, this Court is unable to agree with the

submission of Mr. H.R.A. Choudhury, learned Senior Counsel for the applicants that custodial interrogations of the applicants are not required in the interest of investigation. Their custodial interrogations are very much necessary to unearth the conspiracy and to arrest the other accomplices and to recover the duped amount.

9. In view of above, this Court is of the view that this is not a fit case where the privilege of pre-arrest bail can be extended to the applicants and accordingly, the anticipatory bail application stands dismissed.

10. Case diary be returned.

JUDGE

Comparing Assistant