

GAHC010190862023



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

Case No. : AB/3002/2023

PRANAB SAIKIA AND 2 ORS.

S/O- LATE BHABEN SAIKIA, PERMANENT RESIDENT OF HAWRAGHAT
BAZAR, WARD NO. 2, P.O. AND P.S. HOWRAGHAT, DIST. KARBI
ANGLONG ,ASSAM, PIN- 782481.

2: UJJAL SAIKIA

S/O- LATE BHABEN SAIKIA
PERMANENT RESIDENT OF HAWRAGHAT BAZAR
WARD NO. 2
P.O. AND P.S. HOWRAGHAT
DIST. KARBI ANGLONG
ASSAM
PIN- 782481.

3: HOMEN SAIKIA

S/O- LATE BHABEN SAIKIA
PERMANENT RESIDENT OF HAWRAGHAT BAZAR
WARD NO. 2
P.O. AND P.S. HOWRAGHAT
DIST. KARBI ANGLONG
ASSAM
PIN- 782481

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : S AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

31.08.2023

Heard Mr. S. Ahmed, learned counsel for the applicants and also heard Ms. S.H. Bora, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Apprehending arrest in connection with Hawraghat P.S. Case No.27/2023, under Sections 379/506/34 IPC, this application under Section 438 Cr.P.C. is preferred by applicants, namely, Pranab Saikia, Ujjal Saikia and Homen Saikia for granting them the privilege 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 Sanebala Medhi Saikia on 14.07.2023. The essence of allegation made in the FIR relates to removal of boundary pillars from a plot of land measuring 11 bighas covered by Patta No.342 Dag No.505 & 506 situated at Beloguri Revenue village and threatening of the informant and her son by the applicants.

4. Mr. Ahmed, learned counsel for the applicants submits that the dispute here is a civil dispute between the parties and that all the applicants are working persons and they are no way involved with the offence alleged in the FIR and they are ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Ms. S.H. Bora, learned Additional Public Prosecutor opposed the petition and has prayed for calling the case diary to ascertain the allegation made against the applicant.

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 FIR dated 14.07.2023.

7. Having considered the nature of allegation made in the FIR and also considering

the submission of learned Advocates of both sides, custodial interrogation of the applicants seems to be not warranted here in this case and though the case is registered under Section 379 IPC, yet, there is no specific allegation regarding commission of theft of any article and therefore, this Court is inclined to allow this petition. Accordingly, it is provided that in the event of arrest of the applicants, namely, Pranab Saikia, Ujjal Saikia and Homen Saikia in connection with Hawraghat P.S. Case No.27/2023, under Sections 379/506/34 IPC, they shall be enlarged on pre-arrest bail on their executing a bail bond of Rs.50,000/- each, with one surety of the like amount to the satisfaction of the arresting authority. The above privilege is, however, subject to the following conditions:-

- (i) The applicants shall make themselves available for interrogation by the Investigating Officer as and when required;
- (ii) The applicants 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 from disclosing such facts to the Court or to any police officer; and
- (iii) The applicants shall not leave the jurisdiction of the learned C.J.M., Karbi Anglong, without prior permission.

8. In terms of above, this anticipatory bail application stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant