

GAHC010208712023



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

Case No. : AB/3194/2023

UPENDRA DHAR BAROOAH AND ANR.
S/O LATE HEMKANTA DAUKA,
R/O AMBIKAGIRI NAGAR, RGB ROAD, MILAN PATH, FLAT-3C, 3RD FLOOR,
JYOTISIKHA ENCLAVE, P.O.- AMBIKAGIRI NAGAR, P.S.- GEETANAGAR,
GUWAHATI- 781024, IN THE DISTRICT OF KAMRUP (M), ASSAM.

2: HRIDAYANAND BARUAH @ RIKU
R/O AMBIKAGIRI NAGAR
RGB ROAD
MILAN PATH
FLAT-3C
3RD FLOOR
JYOTISIKHA ENCLAVE
P.O.- AMBIKAGIRI NAGAR
P.S.- GEETANAGAR
GUWAHATI- 781024
IN THE DISTRICT OF KAMRUP (M)
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. D KALITA
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

02.11.2023

Heard Mr. D. Kalita, learned counsel appearing for the petitioners. Also heard Ms. A. Begum, learned Addl. Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioners, namely **(i) Upendra Dhar Barooah (ii) Hridayanand Baruah @ Riku** apprehending arrest in connection with **North Guwahati P.S. Case No. 107/2023** registered u/s **420/468/471/34** of the IPC.

The accusation against the petitioners is that on 7th August, 2023, Tinkudhar Baruah and Pinku Baruah lodged an FIR before the office in-charge of North Guwahati Police Station *inter alia* stating that the first informants were the recorded pattadar of a plot of land measuring 3 Bigha, 03 Katha covered by Dag No. 199 of K.P. Patta No.180, Revenue Vill- North Guwahati Town, Kamrup, Assam and the informants have come through reliable source that the present petitioners cheated and misguided the Lot mandal and Circle Officers and illegally entered into sell agreement with some other persons and have applied for sale permission over the plot of land which belongs to the informants.

Learned counsel for the petitioners submitted that the first informants are the cousins of the petitioner No.2, namely, Hridayanand Baruah @ Riku also submitted that the petitioners have inherited their share of land from one Rabati Baruah, mother of the petitioner No.1. It is further stated that the dispute between the parties are civil in nature and a Title Suit is pending between the parties before the learned Civil Judge, Kamrup which is registered as TS No. 7/2015.

Learned Additional Public Prosecutor has submitted the case diary of North Guwahati PS Case No. 107/2023 and also submitted that it contains a report of the Circle Officer dated 19.10.2023 wherein it is mentioned that the present petitioners inhabited their share of land from one Rebati Baruah and they have applied for sale permission with regard to their share only. Learned Additional Public Prosecutor also submitted that prima facie it appears that the dispute is civil in nature.

Considering the facts and circumstances of the case and also considering the fact that there is already pending civil dispute and revenue dispute between the parties in this case, custodial detention of the present petitioners does not appears to be necessary for completion of investigation of the case.

In the meanwhile, the petitioner, namely, (i) Upendra Dhar Barooah (ii) Hridayanand Baruah @ Riku are hereby directed to appear before the IO of the North Guwahati P.S. Case No. 107/2023 within a period of ten days from the date of this order and co-operate with the Investigating Officer and if they do so within the said period, in the event of their arrest in connection with North Guwahati P.S. Case No. 107/2023, they shall be allowed to go on bail, on furnishing of bail bond of Rs. 30,000/- (Rupees Thirty Thousand only) each, with one surety of like amount to the satisfaction of the arresting authority subject to condition that they shall continue to co-operate with the Investigating Officer.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant