

GAHC010212082023



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

Case No. : Bail Appln./3318/2023

MICHEAL BARIK AND 3 ORS
S/O. SRI RAJKUMAR BARIK

2: MANISH RAI
S/O. SRI RAMAVTAR RAI

3: DEBANANDA NAG
S/O. LT. RATANLAL NAG

4: PIUS @ PIYUSH XALXO
S/O. LT. PAULUSH XALXO
ALL 4 ARE RESIDENT OF DHULLIE TEA ESTATE
MOUZA- SAKOMATHA
P.O. PABHOI
P.S. BISWANATH CHARIALI
PIN-784174
DIST. BISWANATH
ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

27.09.2023

Heard Mr. S.C. Biswas, learned counsel for the accused and also heard Ms. N. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by the accused, namely, Micheal Barik, Manish Rai, Debananda Nag and Pius @ Piyush Xalxo, who have been languishing in jail hazot since 03.08.2023, in connection with the Biswanath Chariali P.S. Case No.95/2023, under Section 454/379 IPC, for granting bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of one FIR lodged by Mr. Subhasis Kar, Manager of Dhullie Tea Estate on 03.08.2023. The essence of allegation made in the FIR is that on 03.08.2023 four persons, namely, Shri Manish Rai – Accountant, Shri Pius @ Piyush Xalxo – Wages Entry, Shri Micheal Barik - 2nd Store Clerk and Shri Devanand Nag – Peon Dering Division, have withdrawn a sum of ₹ 25,57,000/- for payment of wages to the workers of the Dhullie Tea Estate and after withdrawing the amount from the HDFC Bank, they proceeded to SBI for exchanging some cash for some denomination and after collecting the amount they have left towards Pabhoi Road in order to proceed to the garden and at about 12:00 noon they have parked their vehicle in front of Bishnupriya Grocery Store and proceeded to purchase medicine and to take tea in a nearby hotel and keep the cash in their vehicle under lock and key of the vehicle and after returning from the hotel they found that the glass of their vehicle was broken and a sum of ₹ 19,57,000/- was missing from their vehicle.

4. Mr. Biswas, learned counsel for the accused submits that the accused persons were arrested on 03.08.2023, and since then they have been languishing in jail hazot and they are not involved with the offence alleged in the FIR and their custodial detention may not

be required in the interest of investigation and therefore, it is contended to allow the petition.

5. On the other hand, Ms. N. Das, learned Additional Public Prosecutor, Assam, has produced the case diary before this Court and submits that the I.O. has collected some materials against the petitioner No.2 Shri Manish Rai and therefore, Ms. Das has opposed the prayer of the petitioner No.2, Shri Manish Rai.

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 Public Prosecutor, Assam.

7. It appears that the accused are behind the bar for last 55 days. Further, it appears that the investigation of the case has progress substantially and the I.O. has examined several witnesses, though the stolen sum has not yet been recovered. However, considering the period of detention and also the progress of investigation, this Court is inclined to allow this petition. It is provided that on furnishing a bail bond of ₹ 50,000/- each, with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Biswanath Chariali, all the four accused, namely, Micheal Barik, Manish Rai, Debananda Nag and Pius @ Piyush Xalxo, be enlarged on bail, in connection with the Biswanath Chariali P.S. Case No.95/2023 under Section 454/379 IPC.

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

9. CD be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant