

GAHC010222742023



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

Case No. : AB/3374/2023

DULAL RAJKONWAR AND ANR.
S/O- LATE SONABOR RAJKONWAR ,
R/O- FATASIL AMBARI, DILIP HUJURI PATH, HOUSE NO-54,
P.S- FATASIL AMBARI,
PRESENT ADDRESS-
ADAGUDAM,
SRIBHUMI NAGAR, H.NO-04,
P.S- DISPUR, DIST- KAMRUP (M)

2: PAWAN KUMAR SHARMA
S/O- LATE HANUMAN PRASAD SHARMA
R/O- VILLAGE AND P.O- CHARWASI
P.S- RATANGARH
DIST- CHURU
RAJASTHAN
PRESENT ADDRESS-
RANOLI SHARI
HOTEL EMPIRE COMPLEX
P.S- FANCY BAZA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R SALOI

Advocate for the Respondent : PP, ASSAM

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

03.10.2023

Heard Mr. R. Saloi, learned counsel for the applicants and Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. Apprehending arrest in connection with the **Basistha P.S. Case No. 421/2023**, under Sections 120[B]/419/420/468/471 of the IPC, this application under Section 438 of the Code of Criminal Procedure, 1973, is preferred by applicants namely, **Sri Dulal Rajkonwar and Sri Pawan Kumar Sharma** for grant of pre-arrest bail.

3. The aforementioned case has been registered on the basis of one F.I.R., lodged by one Binanda Nath of AIR TRANSPORT CORPORATION, Beltola, Guwahati on 05.07.2023. The essence of allegations made in the FIR is that the applicant had fraudulently executed a false Power of Attorney, registered vide SL No. 8407, Deed No. 1524, before the Sub-Register, Kamrup, Guwahati for a plot of land measuring 3 Bighas 3 Kathas 1.09 Lecha, covered by Dag No. 2755, 2756, 2757 and Patta No. 237 of Revenue Village No.1, Maidamgaon, which is being owned by M/s AIR TRANSPORT CORPORATION, by forging the signature and thumb impression of Sudhir Goyal.

4. Mr. Saloi, learned counsel for the applicants submits that the applicants have appeared before the IO, pursuant to the notice received by them on multiple occasions and now they have received notice under Section 41[A] of the Cr.P.C. and that they have apprehension in their minds that they may be arrested if they appeared before the IO. Mr. Saloi further submits that they are innocent and no way involved with the offence alleged in the FIR and that they are ready to cooperate with the investigating agency and therefore, it is contended to allow the petition.

5. On the other hand, by producing the Case Diary before this Court, Mr. Das, learned Additional Public Prosecutor submits that though the applicants have appeared before the IO, on different occasions, yet, they have not been cooperating with the investigating

agency and given contradictory version and attempting to mislead the investigating agency. Mr. Das further submits that the IO has collected sufficient materials against the applicants and that their custodial interrogation is very much necessary to unearth the conspiracy and therefore, it is contended to dismiss the petition.

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 produced before this Court with the assistance of learned Additional Public Prosecutor.

7. The case diary indicates that the IO has collected sufficient incriminating materials against both the applicants and it also appears that the investigation is in crucial stage and extending the privilege of pre-arrest bail to the applicants, at this stage, will misdirect the investigation. However, it is a fact that the applicants have appeared before the IO, on different occasions. But, it also appears that they have given contradictory statements.

8. Having regards to above and also having regards to the nature and gravity of the offence and the punishment prescribed for the same 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 therefore, the same stands dismissed.

9. Case diary be returned.

JUDGE

Comparing Assistant