

GAHC010233722022



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

Case No. : Bail Appln./3097/2022

PRADIP RAJKHOWA AND ANR
S/O LATE ARANYA KAMAL RAJKHOWA
PERMANENT RESIDENT OF VILL- MAHUWALIMARA GOHAIN GAON,
UNDER BARBARUAH POLICE STATION, IN THE DISTRICT OF DIBRUGARH,
ASSAM

2: SRI PABITRA RAJKHOWA
S/O LATE ARANYA KAMAL RAJKHOWA
PERMANENT RESIDENT OF VILL- MAHUWALIMARA GOHAIN GAON

UNDER BARBARUAH POLICE STATION
IN THE DISTRICT OF DIBRUGARH
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P KATAKI

Advocate for the Respondent : PP, ASSAM

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

18.01.2023

Heard Mr. P. Kataki, learned counsel for the accused; Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent; and Mr. U. Dutta, learned counsel for the informant.

2. This application under Section 439 of the Code of Criminal Procedure, 1973, is preferred by accused, namely, Sri Pradip Rajkhowa and Sri Pabitra Rajkhowa, who have been languishing in jail hazot, in connection with the Dibrugarh P.S. Case No. 671/2022, under Sections 120[B]/326/307 of the IPC read with section 27[1] of the Arms Act, for granting bail.

3. The said case has been registered on the basis of one FIR lodged by one Smti Karabi Baruah, one 01.11.2022, to the effect that on 31.10.2022, at about 6.20 pm, her husband, Sri Siddhartha Rajkhowa was returning from the District Court of Dibrugarh and at Laluka Gaon, some unknown persons, with a view to kill him open fired at him with gun. As a result, her husband sustained injuries and fell down from the motorcycle. Thereafter, he was taken to Assam Medical College and Hospital, Dibrugarh for treatment. On previous occasion her husband has filed one ejahar before the Amolapatty Police Outpost, against Prabitra Rajkhowa and Pradip Rajkhowa who have threatened to kill her husband on 25.08.2022.

4. Mr. Kataki, learned counsel for the accused submits that the accused persons were behind the bar for last 79 days and that there is no material against the accused persons and the material part of investigation is almost over

and the gun also been recovered and seized by the police, and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor has produced the case diary before this Court and submits that the materials collected in the case diary against the accused, Pradip Rajkhowa is not adequate to show his culpability with the offence. However, the IO has collected sufficient materials against the accused, Pabitra Rajkhowa, and therefore, it is contended to dismiss the prayer of accused, Pabitra Rajkhowa.

6. Having heard the submissions 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 Mr. Gogoi, learned Additional Public Prosecutor.

7. It appears that the IO has collected sufficient material in support of the allegation made in the FIR against the accused, Pabitra Rajkhowa. The offences are serious in nature and investigation yet to be completed and therefore, this court is of the view that this is not a fit case to grant the privilege of bail to accused, Pabitra Rajkhowa. Accordingly, his prayer stands rejected at this stage.

8. However, considering the materials so far collected in the case diary against the accused, Pradip Rajkhowa and also considering his period of detention, this court is of the view that his further custodial detention seems to be unwarranted here in this case. Accordingly, the prayer, so far it relates to accused, Pradip Rajkhowa stands allowed.

9. Accordingly it is provided that on furnishing a bond of Rs. 25,000/- (Rupees twenty five thousand) only, with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Dibrugarh, the accused, Pradip Rajkhowa

be enlarged on bail.

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

11. The case diary be returned.

JUDGE

Comparing Assistant