

GAHC010239242022



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

Case No. : AB/3493/2022

RAJIV KUMAR GUPTA
S/O. LT. BISWANATH PRASAD R/O. AZAD ROAD, DOOMDOOMA, P.O. AND
P.S. DOOMDOOMA, DIST.TINSUKIA, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM.

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 23-02-2023

Heard Mr. S. Islam, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioner viz. Rajiv Kumar Gupta has approached this Court seeking the benefit of pre-arrest bail, apprehending arrest, in connection with Doomdooma Police Station Case No. 335/2022 registered for offences punishable under Sections 147/148/149/448/325/395/427, Indian Penal Code [IPC].

3. The informant has lodged the First Information Report [FIR] against 4 [four] accused persons viz. [1] Sri Jai Prakash Prasad, [2] Nandkishore Prasad, [3] Rajiv Kumar Prasad and [4] Rajesh [Rakesh] Kumar Prasad with the allegation that the accused persons are involved in the process of evicting the informant from a shop being no. 7, located at K.P. Road, Kaliapani Chariali under Doomdooma Municipal Board [the subject-shop],. It is the case of the petitioner that the shop was originally allotted in the name of their father, Late Biswanath Prasad. The informant's family took the said shop on rent and due to non-payment of rent for a substantial period, a notice was served upon the accused persons, named in the FIR, being the legal heirs of Late Biswanath Prasad asking them to deposit the outstanding arrear rent due and the outstanding rent amount was duly deposited. The petitioner along with his brothers viz. [i] Sri Jai Prakash Prasad, [ii] Nandkishore Prasad and [iii] Rajesh [Rakesh] Kumar Prasad, have also instituted a title suit, Title Suit No. 58/2022 in the Court of learned Munsiff No. 1, at Tinsukia claiming right, interest and lawful possession of the suit property i.e. the subject-shop and by an order dated 02.11.2022 passed in Misc.[J] Case no. 100/2022 arising out of Title Suit no. 58/2022, the learned Court of Munsiff No. 1 at Tinsukia had granted interim temporary injunction against the opposite party i.e. the informant and his family members.

4. There is a dispute between both the parties and the Title Suit No. 58/2022 is in respect of the subject shop. It is also apparent from the allegations in the FIR that the incident is result of the dispute regarding the shop.

5. I have perused the CD. The Medico Legal Report depicts that the victim sustained abrasion on the lateral aspect of his right eye and tenderness on his chest which appears to be simple injuries. The petitioner has also appeared before the IO and has cooperated with the investigation. Considering all aspects and in view of my foregoing discussions, the interim order dated 25.11.2022 is hereby made absolute.

Send back the CD.

JUDGE

Comparing Assistant