

GAHC010247912023



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

Case No. : AB/3708/2023

ABUL SHEIKH AND 2 ORS
S/O LATE SABED ALI, R/O VILL-DURGAMARI PT-II, P.S.-BONGAIGAON,
DIST-BONGAIGAON, ASSAM

2: EJAHAN SHEIKH
S/O LATE SABED ALI
R/O VILL-DURGAMARI PT-II
P.S.-BONGAIGAON
DIST-BONGAIGAON
ASSAM

3: AJIJUL SHEIKH
S/O ABDUL HAMID SHEIKH
R/O VILL-DURGAMARI PT-II
P.S.-BONGAIGAON
DIST-BONGAIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M KHAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 16.11.2023

Heard Mr. M. Khan, learned counsel for the petitioners. Also heard Mr. M.P. Goswami, learned Additional Public Prosecutor for the State.

2. This bail application filed under **Section 438 Cr.P.C.**, praying for pre-arrest bail by the petitioners, namely, **Abdul Sheikh, Ejahan Sheikh and Ajijul Sheikh**, who are apprehending arrest in connection with **Bongaigaon P.S. Case No. 442/2023**, registered under **Section 420 IPC**.

3. As per FIR, on receipt of the information that some persons are running a business of fake gold in Durgamari area under Bongaigaon P.S., then the police personnel searched the house of Abul Sheikh and recovered 24 nos. of suspected to be fake gold biscuits and cash amount. It is also alleged that other two petitioners are also involved in the said business.

4. The learned counsel for the petitioners has submitted that the father of petitioner No. 3 was arrested in connection with G.R. Case No. 369/2015 by the I/C of Bidyapur out post and was beaten severely. Thereafter, the father of the petitioner No. 3 filed a C.R. case No. 67/2023 against the I/C, Bidyapur out post before the CJM, Bongaigaon for which the instant FIR has been lodged. It is also submitted that nothing was recovered from the possession of the petitioners and they are no way involved with the alleged offence. Under such background and the nature of offence as alleged in the FIR, benefit of pre-arrest bail may be extended to the petitioners.

4. On the other hand, Mr. Goswami, learned Additional Public Prosecutor for the State has opposed in granting the privilege of pre-arrest bail to the petitioner. It is also submitted that the fake gold was recovered from the possession of the petitioners. At this stage, the prayer of the petitioners may not be considered.

5. I have considered the submissions made by the learned counsel for the parties and I have also perused the case diary along with the documents available thereon.

6. It is alleged that the petitioners are running business of fake gold since long and some fake gold was recovered from the possession of the petitioners. But it is interesting to note that the I/O did not take any initiative to send such gold items to FSL as to whether those seized items are fake or not.

7. Considering the background of the case, this Court finds that custodial interrogation of the petitioners is not required for the purpose of investigation of the case. Therefore, they are granted the privilege of pre-arrest bail.

8. Accordingly, it is provided that in the event of arrest of the petitioners, named above, in connection with **Bongaigaon P.S. Case No. 442/2023**, registered **under Section 420 IPC** , they shall be released on furnishing bail bond of **Rs.20,000/- each** with **a suitable surety each** of the like amount, to the satisfaction of the arresting authority.

9. The direction for pre-arrest bail is subject to the conditions that the petitioners:

(a) shall appear before the Investigating Police Officer within ten

days from today and shall co-operate with the investigation;

(b) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

10. The anticipatory bail application stands disposed of accordingly.
11. Return the case diary.

JUDGE

Comparing Assistant