

GAHC010252782022



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

Case No. : AB/3649/2022

ABINASH SAIKIA AND 2 ORS .
S/O PRATAP SAIKIA
R/O TIPAMIA CHUK
P.O. AND P.S. TEOK
DIST. JORHAT
PIN-785112

2: DIPAK GOGOI @ MINTU
S/O DURGADHAR GOGOI
R/O HATIMURIA
P.O. TEOK
P.S. TEOK
DIST. JORHAT
PIN-785112

3: TARUN SAHU
S/O BOLORAM SAHU
R/O NARENGI PACHONI
P.O. TEOK
DIST. JORHAT
PIN-78511

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. R DEV

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 04-01-2023

Heard Mr. R. Dev, learned counsel for the petitioners and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 438, Code of Criminal Procedure, 1973 [CrPC], the petitioners viz. [1] Abinash Saikia, [2] Dipak Gogoi @ Mintu and [3] Tarun Sahu have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest, in connection with Halwating Police Station Case no. 20/2022 [corresponding G.R. Case no. 798/2022], registered for the offences under Sections 120B/379/413/468/420, Indian Penal Code [IPC].

3. The First Information Report [FIR] has been lodged by a Sub-Inspector of Police, attached to Halwating Police Station, on 28.11.2022 with the allegation that during the *Naka* Checking on 28.11.2022, two trucks carrying 339 bags and 280 bags of betel nuts, suspected to be of foreign origin, were intercepted. On failure to produce valid documents, two drivers and one handyman were arrested. Apart from the said three persons, two more persons viz. Rafiquddin Ahmed and Arif Ahmed were also arrested.

4. Mr. Dev, learned counsel for the petitioners has submitted that the apprehension of arrest for the petitioners has arisen in view of the fact that one TV Channel were broadcasting a news that the three petitioners herein were also involved in the transportation of betel nuts, suspected to be of foreign origin. He has submitted that the petitioners are nowhere involved with the transportation of the betel nuts i.e. the subject matter of investigation of Halwating Police Station Case no. 20/2022.

5. Mr. Goswami, learned Additional Public Prosecutor who has received the case diary, has submitted that during in the investigation carried out so far, no materials have been

unearthed to connect these three petitioners with the transportation of betel nuts, suspected of foreign origin, seized on 28.11.2022 resulting into the FIR of Halwating Police Station Case no. 20/2022.

6. The petitioners were provided interim protection on 09.12.2022 with the further direction to appear before the Investigating Office [I.O.] of the case within 7[seven] days from 09.12.2022. The petitioners have appeared before the I.O. of the case within the stipulated period and have thereby joined the investigation and their statements are found duly recorded in the case diary.

7. Considering the fact that the petitioners have already joined the investigation by appearing before the I.O. of the case and there are no *prima facie* materials connecting the petitioners with the transportation of betel nuts, seized on 28.11.2022, the interim protection granted to the petitioners by order dated 09.12.2022, is made absolute, subject to the following conditions :

- [i] the petitioners shall appear before the Investigating Officer [I.O.] of the case as and when their presence is required by the I.O. in the investigation of the case;
- [ii] the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer; and
- [iii] the petitioners shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

8. The application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant