

GAHC010254362022



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

Case No. : AB/3676/2022

MOUSUMI DEY AND ANR
D/O- GAURNGA CH. DEY, R/O- VILL- CHALAGAON, P.S. RANGAPARA, SUB
DIVN. TEZPUR, DIST.- SONITPUR, ASSAM

2: SOMA MODAK
W/O- BHAKTARAM MODAK
R/O- VILL- JYOTINAGAR
P.S. JORHAT
SUB DIVN- JORHAT
DIST.- JORHAT
ASSAM

VERSUS

STATE OF ASSAM
REP. BY THE P.P., ASSAM

Advocate for the Petitioner : MR. N DUBEY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 10-01-2023

Heard Mr. N. Dubey, learned counsel for the petitioners and Mr. B. Sarma, 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] Mousumi Dey and [2] Soma Modak have approached this Court seeking the benefit of pre-arrest bail, apprehending their arrest, in connection with Tezpur Police Station Case no. 1206/2022 [corresponding G.R. Case no. 2299/2022], registered under Sections 420/376, Indian Penal Code [IPC].

3. In the First Information Report [FIR], lodged on 23.11.2022, the informant has mentioned about a love affair developed and continued between the informant and the accused no. 1 named in the FIR viz. Sri Gokul Dey, who is an employee of the RPF. According to the informant, the relationship has been continuing for last about 4 [four] years. The accused no. 1 used to be a frequent visitor to the house of the informant and both of them in the course of the relationship, also indulged in physical relationship. The accused no. 1 had given assurance to the informant to enter into a marital relationship with her. The allegation against the two petitioners herein, who are sisters of the accused no. 1, is to the effect that by exerting mental pressure upon the informant, they have been trying to disrupt the discussion regarding solemnization of marriage between the informant and the accused no. 1.

4. Mr. Sarma, learned Additional Public Prosecutor who has received the case diary, has submitted that during the course of investigation, the statement of the informant has been recorded under Section 164, CrPC. In her statement recorded under Section 164, CrPC, the informant has reiterated the version made in the FIR.

5. The two petitioners were provided interim protection by order dated 13.12.2022 with a further direction to them to appear before the Investigating Officer [I.O.] of the case within 10 [ten] days from 13.12.2022. The learned counsel for the petitioners has submitted that in deference to the order dated 13.12.2022, both the petitioners have appeared before the I.O. of the case. From the case diary produced today by the learned Additional Public Prosecutor, it is found that both the petitioners have, in the meantime, appeared before the I.O. of the case and upon their appearance, their statements are recorded under Section 161, CrPC by the I.O. Such statements are available in the case diary.

6. Having regard to the materials in respect of the two petitioners herein to the above

effect and considering the fact that the petitioners by appearing before the I.O. of the case, in the meantime, have joined the investigation, there appears to be no necessity of custodial interrogation of the petitioners for the purpose of carrying out further investigation of the case and their release on pre-arrest bail, at this stage of investigation, is not likely to bring any adverse effect in the further investigation, provided they continue to extend their assistance and co-operation in the further investigation of the case.

7. Accordingly, the interim protection granted to the petitioners by order dated 13.12.2022, is made absolute, subject to the following conditions :-

[i] the petitioners shall co-operate with the investigation and make themselves available for interrogation whenever required by the Investigating Officer [I.O.] 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 them from disclosing such facts to the court or to any police officer;

[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;

[iv] the petitioners shall maintain law and order and they shall not commit an offence similar to the offence of which they are accused, or of the commission of which they are suspected; and

[v] the petitioners shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge-sheeted in the case;

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

JUDGE

Comparing Assistant