

GAHC010275772023



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

Case No. : AB/4138/2023

1. PRABHAKAR DAS,
S/O ABINASH DAS,
R/O SANATAN GAON,
P.O. NORTH LAKHIMPUR,
DIST. LAKHIMPUR, ASSAM.

2: DIMPOL BORAH,
S/O SATYAJIT BORAH,
R/O JAPISAJIA,
P.O. DEBERA,
DIST. LAKHIMPUR, ASSAM.

3: MINTU BORUAH,
S/O ANIT BARUAH,
R/O MILON NAGAR,
P.O. NORTH LAKHIMPUR,
DIST. LAKHIMPUR, ASSAM.

4: RAHUL GOGOI @ RAHUL BORA,
S/O PRASANTA GOGOI,
R/O JAPISAJIA,
P.O. DEBERA,
DIST. LAKHIMPUR, ASSAM.

5: NITUL SAIKIA,
S/O FATIK SAIKIA,
R/O KHARKATI,
P.O. PANIGAON,
DIST. LAKHIMPUR, ASSAM.

--VERSUS--

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. K GOGOI

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

15.12.2023

Heard Ms. P. Borah, learned counsel for the petitioners. Also heard Mr. K.K. Parashar, learned Additional Public Prosecutor, Assam.

This application under Section 438 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, (1) Prabhakar Das, (2) Dimpol Borah, (3) Mintu Boruah, (4) Rahul Gogoi @ Rahul Bora and (5) Nitul Saikia, who are apprehending their arrest in connection with North Lakhimpur Police Station Case No.331/2023 under Sections 143/147/188 of the Indian Penal Code read with Section 4 of the Prevention of Damage to Public Property Act, 1984.

The gist of accusation against the present petitioners is that on 09.09.2023, one Biman Gogoi, SI of Police, North Lakhimpur Police Station had lodged an FIR before the Officer-In-Charge of North Lakhimpur Police Station, *inter-alia*, alleging that on 08.09.2023, the Asomiya Yuva Mancha, Lakhimpur District Committee called for 12 hours "*TOLA AND CHAKKA BANDH*" from 6.00 AM to 6.00 PM on 09.09.2023 and on the said date, while the police party was conducting patrolling duty, some members of the Asomiya Yuva Mancha, Lakhimpur District Committee were found burning tires in the morning hours in some parts of Lakhimpur town and also threatening the shopkeepers for closing their shops and public transport drivers not to run the vehicles.

Learned counsel for the petitioners has submitted that the present petitioners

are not even the members of the Asomiya Yuva Mancha, Lakhimpur District Committee and the allegations leveled against them in the FIR are not true. It is further submitted by the learned counsel for the petitioners that even if the allegations made in FIR are considered to be correct in its face value, apart from the allegation of burning of tires, there is no other allegation of destruction of public property.

Learned counsel for the petitioners has further submitted that now the petitioners are ready to co-operate in the investigation.

Learned Additional Public Prosecutor has submitted that though apart from burning of tires, no other specific allegation of destruction of public property has been made, however, the petitioners have violated the Court's order whereby *bandhs* are declared unconstitutional. He has fairly submitted that if the petitioners co-operate in the investigation, their custodial detention may not be necessary for fair completion of the investigation in this case.

In view of the submissions made by the learned counsel for both the sides and in view of the materials available on record, the petitioners above named are hereby directed to appear before the Investigating Officer of North Lakhimpur Police Station Case No.331/2023 within a period of 10(ten) days from the date of this order and co-operate in the investigation. If the above named petitioners do so, in the event of their arrest in connection with North Lakhimpur Police Station Case No.331/2023, they shall be allowed to go on bail of Rs.30,000/- (Rupees thirty thousand) each with one suitable surety of like amount subject to the satisfaction of the arresting authority with the following conditions:-

- (i) that the petitioners shall co-operate in the investigation;
- (ii) that the petitioners shall not directly or indirectly make any inducement, threat or promise to any person who may be acquainted with the facts of the case, so as to dissuade such person from disclosing such facts of the case before the investigating officer.

With the above observations and directions, this anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant