

GAHC010279122023



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

Case No. : AB/4166/2023

PRANAYA BARUAH DAS AND ANR
D/O-LT. BANGSHIDHAR BARUAH
W/O-BAPUKAN DAS

2: SMTI JINKU BARUAH
D/O LT BANGSHIDHAR BARUAH
BOTH ARE RESIDENCE OF
R/O AND VILL SILSAKOO
P.O- AND PS -NORTH GUWAHATI
DIST- KAMRUP (ASSAM), PIN-78103

VERSUS

THE STATE OF ASSAM
KAMRUP

Advocate for the Petitioner : MR. S K JAIN

Advocate for the Respondent : PP, ASSAM

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

14.12.2023

Heard Mr. S.K. Jain, learned counsel for the petitioners. Also heard Mr. P. Borthakur, 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) Smti Pranaya Baruah Das and (2) Smti Jinku

Baruah, who are apprehending their arrest in connection with North Guwahati Police Station Case No.144/2023 under Sections 188/294(a)/353/325/427/34 of Indian Penal Code.

The gist of accusation against the present petitioners is that on 22.11.2023, one Smti. Panchali Baruah, Civil Nazir of the office of District and Sessions Judge, Kamrup, Amingaon lodged an FIR before the Officer-in-Charge of North Guwahati Police Station, *inter-alia*, alleging that when the informant who is the Civil Nazir of the office of District and Sessions Judge, Kamrup along with the Process Server, police force and lat mondal went to execute the decree pursuant to the directions given in Title Execution Case No.02/2019 (arising out of Title Suit No.7/2015) of the Court of Civil Judge Kamrup(R), Amingaon, the present petitioners had verbally abused the informant and other members who went to execute the decree and also obstructed them from executing the decree.

Learned counsel for the petitioners has submitted that the petitioners' father had a dispute with the judgment debtor of the Title Suit No.7/2015, on the date when the decree of which is sought to be executed by the informant alleged against the petitioners.

It is submitted by the learned counsel for the petitioners that on the date on which the Civil Nazir went to execute the decree, the petitioners were under an impression that the men of one Upendradhar Baruah, who is the judgment debtor in Title Execution Case No.02/2019, had come to their land. Therefore, the petitioners tried to prevent them. Later on, after coming to know that they were Court officials, the petitioners co-operated with the said officials. It is further submitted that later on, on the same day, i.e. 22.11.2023, the writ issued by the learned Civil Judge was executed and the petitioners had co-operated in the said execution.

To substantiate his submission, learned counsel for the petitioners has also furnished an execution report submitted by Civil Nazir, Kamrup, Amingaon as Annexure-III to this bail application.

Learned counsel for the petitioners has submitted that as the incident occurred due to wrong impression on the part of the present petitioners, and later on, they co-operated in the investigation and they are also ready to co-operate in the investigation in the case pending against them, their custodial detention may not be necessary.

Learned Additional Public Prosecutor, Assam also submits that considering the submissions made by the learned counsel for the petitioners, he does not have any objection to the prayer of the petitioners if the petitioners co-operate in the investigation of North Guwahati P.S. Case No.144/2023.

Considering the submissions made by learned counsel for both the sides and also considering the facts and circumstances of the case as well as the material on record, both the above named petitioners are hereby directed to appear before the Investigating Officer of North Guwahati P.S. Case No.144/2023 within a period of 10(ten) days from the date of this order and co-operate in the investigation.

If the petitioners do so within the stipulated period of time, in the event of their arrest in connection with North Guwahati P.S. Case No.144/2023, they shall be allowed to go on bail of Rs.30,000/- each with one 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 the informant or 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, the present anticipatory bail application is hereby disposed of.

JUDGE

Comparing Assistant